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TITLE 23, UNITED STATES CODE

MISCELLANEOUS HIGHWAY PROVISIONS

URBAN MASS TRANSPORTATION ACT OF 1964

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FOREWORD

Contained herein is a compilation of title 23 of the United States Code (governing the Federal-aid Highway program), the Urban Mass Transportation Act of 1964, and miscellaneous highway provisions, with all changes through the 98th Congress.

Because of the significance and importance of new amendments to these laws, the Committee on Public Works and Transportation felt there was a need to publish, for handy use and reference, in one package, this compilation.

The Committee hopes that this latest revision will be helpful to all those who are interested in the transportation programs of our Nation.

JAMES J. HOWARD, *Chairman.*

TITLE 23, UNITED STATES CODE

TITLE 23.—UNITED STATES CODE

HIGHWAYS

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§ 101. Definitions and declaration of policy

(a) As used in this title, unless the context requires otherwise—

The term "apportionment" in accordance with section 104 of this title includes unexpended apportionments made under prior acts.

The term "construction" means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce), resurfacing, restoration, and rehabilitation, acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas. The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses and also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program.

The term "county" includes corresponding units of government under any other name in States which do not have county organizations, and likewise in those States in which the county government does not have jurisdiction over highways it may be construed to mean any local government unit vested with jurisdiction over local highways.

The term "Federal lands highways" means forest highways, public lands highways, park roads, parkways, and Indian reservation roads which are public roads.

The term "forest or trail" means a road or trail wholly or partly within, or adjacent to, and serving the National Forest system and which is necessary for the protection, administration, and utilization of the National Forest system and the use and development of its resources.

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[1] Section 146 is now entitled "Carpool and Vanpool Projects". When that section was added, however, by section 126(a) of Public Law 95-599, the table of contents was not amended to conform to the new section. The notation "Repealed" was added when the previous section 146 was repealed (Section 128 of Public Law 94-280).

The term "forest development roads and trails" means a forest road or trail under the jurisdiction of the Forest Service.

The term "forest highway" means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

The term "highway" includes roads, streets, and parkways, and also includes rights-of-way, bridges, railroad-highway crossings, tunnels, drainage structures, signs, guardrails, and protective structures, in connection with highways. It further includes that portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State highway department including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel.

The term "Federal-aid highways" means highways located on one of the Federal-aid systems described in section 103 of this title.

The term "highway safety improvement project" means a project which corrects or improves high hazard locations, eliminates roadside obstacles, improves highway signing and pavement marking, or installs traffic control or warning devices at high accident potential locations.

The term "Indian reservation roads" means public roads, including roads on the Federal-aid systems, that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

The term "maintenance" means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for its safe and efficient utilization.

The term "park road" means a public road that is located within or provides access to an area in the national park system.

The term "parkway" as used in chapter 2 of this title, means a parkway authorized by an Act of Congress on lands to which title is vested in the United States.

The term "project" means an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed.

The term "project agreement" means the formal instrument to be executed by the State highway department and the Secretary as required by the provisions of subsection (a) of section 110 of this title.

The term "public lands development roads and trails" means those roads or trails which the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under his control.

The term "public lands highways" means those main highways through unappropriated or unreserved public lands, nontaxable

Indian lands, or other Federal reservations, which are on the Federal-aid systems.

The term "public road" means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

The term "rural areas" means all areas of a State not included in urban areas.

The term "Secretary" means Secretary of Transportation.

The term "urbanized area" means an area so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.

The term "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

The term "State funds" includes funds raised under the authority of the State or any political or other subdivision thereof, and made available for expenditure under the direct control of the State highway department.

The term "State highway department" means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction.

The term "Federal-aid system" means any one of the Federal-aid highway systems described in section 103 of this title.

The term "Federal-aid primary system" means the Federal-aid highway system described in subsection (b) of section 103 of this title.

The term "Federal-aid secondary system" means the Federal-aid highway system described in subsection (c) of section 103 of this title.

The term "Federal-aid urban system" means the Federal-aid highway system described in subsection (d) of section 103 of this title.

The term "Interstate System" means the National System of Interstate and Defense Highways described in subsection (e) of section 103 of this title.

The term "urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one State that part of the urbanized area in each such State, or urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

(b) It is hereby declared to be in the national interest to accelerate the construction of the Federal-aid highway systems, including the National System of Interstate and Defense Highways, since many of such highways, or portions thereof, are in fact inadequate to meet the needs of local and interstate commerce, for the national and civil defense.

It is hereby declared that the prompt and early completion of the National System of Interstate and Defense Highways, so named because of its primary importance to the national defense and hereafter referred to as the "Interstate System", is essential to the national interest and is one of the most important objectives of this Act. It is the intent of Congress that the Interstate System be completed as nearly as practicable over the period of availability of the thirty-four years, appropriations authorized for the purpose of expediting its construction, reconstruction, or improvement, inclusive of necessary tunnels and bridges, through the fiscal year ending September 30, 1990, under section 108(b) of the Federal-Aid Highway Act of 1956 (70 Stat. 374), and that the entire system in all States be brought to simultaneous completion. Insofar as possible in consonance with this objective, existing highways located on an interstate route shall be used to the extent that such use is practicable, suitable, and feasible, it being the intent that local needs, to the extent practicable, suitable, and feasible, shall be given equal consideration with the needs of interstate commerce.

It is further declared that since the Interstate System is now in the final phase of completion it shall be the national policy that increased emphasis be placed on the construction and reconstruction of the other Federal-aid systems in accordance with the first paragraph of this subsection, in order to bring all of the Federal-aid systems up to standards and to increase the safety of these systems to the maximum extent.

(c) It is the sense of Congress that under existing law no part of any sums authorized to be appropriated for expenditure upon any Federal-aid system which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation, for purposes and projects as provided in this title, by any officer or employee in the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the Highway Trust Fund to defray the expenditures which will be required to be made from such fund.

(d) No funds authorized to be appropriated from the Highway Trust Fund shall be expended by or on behalf of any Federal department, agency, or instrumentality other than the Federal Highway Administration unless funds for such expenditure are identified and included as a line item in an appropriation Act and are to meet obligations of the United States heretofore or hereafter incurred under this title attributable to the construction of Federal-aid highways or highway planning, research, or development, or as otherwise specifically authorized to be appropriated from the Highway Trust Fund by Federal-aid highway legislation.

(e) It is the national policy that to the maximum extent possible the procedures to be utilized by the Secretary and all other affected heads of Federal departments, agencies, and instrumentalities for carrying out this title and any other provision of law relating to the Federal highway programs shall encourage the substantial minimization of paperwork and interagency decision procedures and the best use of available manpower and funds so as to prevent

needless duplication and unnecessary delays at all levels of government.

§ 102. Authorizations

The provisions of this title apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations, heretofore made, providing for the expenditure of Federal funds upon the Federal-aid systems. All such authorizations and appropriations shall continue in full force and effect, but hereafter obligations entered into and expenditures made pursuant thereto shall be subject to the provisions of this title.

§ 103. Federal-aid systems

(a) For the purposes of this title, the four Federal-aid systems, the primary system, the urban system, the secondary system, and the Interstate System, are established and continued pursuant to the provisions of this section.

(b)(1) The Federal-aid primary system shall consist of an adequate system of connected main highways, selected or designated by each State through its State highway department, subject to the approval of the Secretary as provided by subsection (f) of this section. This system shall not exceed 7 per centum of the total highway mileage of such State, exclusive of mileage within national forests, Indian, or other Federal reservations and within urban areas, as shown by the records of the State highway department on November 9, 1921. Whenever provision has been made by any State for the completion and maintenance of 90 per centum of its Federal-aid primary system, as originally designated, said State through its State highway department by and with the approval of the Secretary is authorized to increase the mileage of its Federal-aid primary system by additional mileage equal to not more than 1 per centum of the total mileage of said State as shown by the records on November 9, 1921. Thereafter, it may make like 1 per centum increases in the mileage of its Federal-aid primary system whenever provision has been made for the completion and maintenance of 90 per centum of the entire system, including the additional mileage previously authorized. This system may be located both in rural and urban areas. The mileage limitations in this paragraph shall not apply to the District of Columbia, Hawaii, Alaska, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) After June 30, 1976, the Federal-aid primary system shall consist of an adequate system of connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas. The Federal-aid primary system shall be designated by each State acting through its State highway department and where appropriate, shall be in accordance with the planning process pursuant to section 134 of this title, subject to the approval of the Secretary as provided by subsection (f) of this section.

(c)(1) The Federal-aid secondary system shall be selected by the State highway departments and the appropriate local road officials in cooperation with each other, subject to approval by the Secretary as provided in subsection (f) of this section. In making such

selections, farm-to-market roads, rural mail routes, public school bus routes, local rural roads, access roads to airports, county roads, township roads, and roads of the county road class may be included, so long as they are not on the Federal-aid primary system or the Interstate System. This system may be located both in rural and urban areas, but any extension of the system into urban areas shall be subject to the condition that such extension pass through the urban area or connect with another Federal-aid system within the urban area.

(2) After June 30, 1976, the Federal-aid secondary system shall consist of rural major collector routes. The Federal-aid secondary system shall be designated by each State through its State highway department and appropriate local officials in cooperation with each other, subject to the approval of the Secretary as provided in subsection (f) of this section.

(d)(1) The Federal-aid urban system shall be established in each urbanized area, and in such other urban areas as the State highway department may designate. The system shall be so located as to serve the major centers of activity, and shall include high traffic volume arterial and collector routes, including access roads to airports and other transportation terminals. No route on the Federal-aid urban system shall also be a route on any other Federal-aid system. Each route of the system to the extent feasible shall connect with another route on a Federal-aid system. Routes on the Federal-aid urban system shall be selected by the appropriate local officials so as to serve the goals and objectives of the community, with the concurrence of the State highway departments, and, in urbanized areas, also in accordance with the planning process under section 134 of this title. Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section. The provisions of chapters 1, 3, and 5 of this title that are applicable to Federal-aid primary highways shall apply to the Federal-aid urban system except as determined by the Secretary to be inconsistent with this subsection.

(2) After June 30, 1976, the Federal-aid urban system shall be located in each urbanized area and such other areas as the State highway departments may designate and shall consist of arterial routes and collector routes, exclusive of urban extensions of the Federal-aid primary system. The routes on the Federal-aid urban system shall be designated by appropriate local officials, with the concurrence of the State highway departments, subject to the approval of the Secretary as provided in subsection (f) of this section, and in the case of urbanized areas shall also be in accordance with the planning process required pursuant to the provisions of section 134 of this title.

(e)(1) The Interstate System shall be designated within the United States, including the District of Columbia, and, except as provided in paragraphs (2) and (3) of this subsection, it shall not exceed forty-one thousand miles in total extent. It shall be so located as to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers, to serve the national defense, and to the greatest extent possible, to connect at suitable border points with routes of continental importance in the Dominion of Canada and the Republic of Mexico. The routes of this

system, to the greatest extent possible, shall be selected by joint action of the State highway departments of its State and the adjoining States, subject to the approval by the Secretary as provided in subsection (f) of this section. All highways or routes included in the Interstate System as finally approved, if not already coincident with the primary system, shall be added to said system without regard to the mileage limitation set forth in subsection (b) of this section. This system may be located both in rural and urban areas.

(2) In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System of five hundred miles, to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the request of a State highway department the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. After the Secretary has withdrawn his approval of any such route or portion thereof the mileage of such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of interstate routes or portions thereof as provided in this subsection. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph. The Secretary shall not designate any Interstate route or portion thereof under authority of this paragraph after the date of enactment of the Federal Aid Highway Act of 1978.

(3) In addition to the mileage authorized by paragraphs (1) and (2) of this subsection, there is hereby authorized additional mileage of not to exceed 1,500 miles for the designation of routes in the same manner as set forth in paragraph (1), in order to improve the efficiency and service of the Interstate System to better accomplish the purposes of that System.

(4) Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, or up to and including the 1983 interstate cost estimate, whichever is earlier, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of approval of

each substitute project under this paragraph, or the date of approval of the 1983 interstate cost estimate, whichever is earlier, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or projects authorized under any highway assistance program under section 103 of this title; or both, which will serve the area or areas from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located.[1] Substitute projects under this paragraph may not be approved by the Secretary under this paragraph after September 30, 1983, and the Secretary shall not approve any withdrawal of a route under this paragraph after such date, except that this sentence shall not apply to any route which on the date of enactment of the Federal-Aid Highway Act of 1978 is under judicial injunction prohibiting its construction, and except that with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction, the Secretary may approve substitute projects and withdrawals on such route until September 30, 1985. Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of each substitute project shall not exceed 85 per centum of the cost thereof. The sums apportioned under this paragraph for public mass transit projects shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. The sums available for obligation under this paragraph for projects under any highway assistance program shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. Any sums which are apportioned to a State for a fiscal year and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of such fiscal year shall be apportioned among those States which have obligated all sums (other than such an amount) apportioned to them for such fiscal year, in accordance with the latest approved estimate of the cost of completing the appropriate substitute projects in such States. The sums obligated for mass transit projects shall become part of, and be administered through, the Urban Mass Transportation Fund. For the fiscal year ending Sep-

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[1] Notwithstanding any other provision of law, with respect to any route or portion thereof on the Interstate System approval of which is or has been withdrawn under section 103(e)(4) of title 23, United States Code, in any case where the sum determined under the second sentence of such section is less than the cost to complete the withdrawn route or portion (in accordance with the design of such route or portion on the date of such withdrawal) as of June 30, 1980, as a result of decreases in construction costs, the sum which shall be available to the Secretary under such sentence shall be an amount equal to such cost of completion as of June 30, 1980. [Section 107(c)(2), Public Law 97-424.]

tember 30, 1983, $257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. For the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, sums obligated for projects under highway assistance programs shall be paid out of the Highway Trust Fund, and $700,000,000 shall be available for expenditure during each of the fiscal years ending September 30, 1984, and September 30, 1985, and $725,000,000 shall be available for expenditure during the fiscal year ending September 30, 1986. Twenty-five per centum of the funds available from the Highway Trust Fund for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal year ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal years ending September 30, 1985, and September 30, 1986. There are authorized to be appropriated for liquidation of obligations incurred under this paragraph the sums provided in section 4(g) of the Urban Mass Transportation Act of 1964. Fifty per centum of the funds appropriated for each fiscal year beginning after September 30, 1983, for carrying out substitute transit projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 50 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal year ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal years ending September 30, 1985, and September 30, 1986. Unobligated apportionments for the Interstate System in any State where a withdrawal is approved

under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an Interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal-Aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal-Aid Highway Act of 1976 shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of such Federal-Aid Highway Act. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of this paragraph as amended by the Federal-Aid Highway Act of 1976, shall be effective as of August 13, 1973. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph. After the date of enactment of this sentence, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law. The preceding sentence shall not apply to a designation made under section 139 of this title. After September 30, 1979, the Secretary shall not withdraw his approval under this paragraph of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal. Any withdrawal of approval of any such route or portion thereof before September 30, 1979, is hereby determined to be authorized by this paragraph. Any route or segment thereof which was statutorily designed after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.

(5) Notwithstanding any other provision of law, in the case of any withdrawal of approval before November 6, 1978—

(A) upon the withdrawal of approval of any route or portion thereof on the Interstate System under this section, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

(B) refund will not be required for the costs of construction items, materials, or rights-of-way of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to such other public purpose as may be determined by the Secretary to be in the public interest on condition that the State

shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State of any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval; and

(6) Notwithstanding any other provision of law—

(A) in the case of any withdrawal of approval on or after November 6, 1978, of a route or portion thereof on the Interstate System, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

(B) in the case of any withdrawal of approval on or after November 6, 1978, of any route or portion thereof on the Interstate System under this section, a State shall not be required to refund to the Highway Trust Fund the costs of construction items, materials, or rights-of-way of the withdrawn route or portion thereof if such items, materials, and rights-of-way were acquired before November 6, 1978, if by the date of withdrawal of approval the Secretary has not approved the environmental impact statement required by the National Environmental Policy Act of 1969, and if such construction items, materials, or rights-of-way will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to any other public purpose determined by the Secretary to be in the public interest on condition that the State gives assurances satisfactory to the Secretary that such construction items, materials, or rights-of-way have been or will be so applied by the State, or any political subdivision thereof, to a project under clause (i), (ii), or (iii) within ten years from the date of withdrawal of approval;

(7) In any case where a withdrawal of approval of a route or portion thereof on the Interstate System on or after November 6, 1978, does not come within the provisions of paragraph (6)(B) of this subsection, the State shall refund to the Highway Trust Fund the costs of construction items, materials, and rights-of-way of the withdrawn route or portion thereof, except if the State gives assurances satisfactory to the Secretary that such items, materials, and rights-of-way have been or will be applied to a transportation project permissible under this title within ten years from the date of withdrawal of approval, the amount of such repayment shall be the difference between the amount received for such items, materials, and rights-of-way and the amount which would be received in accordance with the current Federal share applicable to the transportation project to which such items, materials, and rights-of-way were or are to be applied; and [1]

(8) Nothing in this subsection shall in any way alter rights under State law of persons owning property within the right-of-way immediately prior to such property being obtained by the State. The Federal share of the cost of property sold or otherwise transferred to previous owners under State law shall be refunded and credited

[1] So in original.

to the unobligated balance of the State's apportionment for interstate highways.

(9) Interstate mileage authorized for any State and withdrawn and transferred under the provisions of paragraph (2) of this subsection after the date of enactment of the Federal-Aid Highway Act of 1976, must be constructed by the State receiving such mileage as part of its Interstate System. Any State receiving such transfer of mileage may not, with respect to that transfer, avail itself of the optional use of Interstate funds under the second sentence of paragraph (4) of this subsection.

(f) The Secretary shall have authority to approve in whole or in part the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and the Interstate System, as and when such systems or portions thereof are designated, or to require modifications or revisions thereof. No Federal-aid system or portion thereof shall be eligible for projects in which Federal funds participate until approved by the Secretary.

(g) The Secretary, on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not essential to completion of a unified and connected Interstate System. Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met, shall be removed from designation, as a part of the Interstate System. No segment of the Interstate System removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest. This subsection shall not be applicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

(h) Notwithstanding subsections (e)(2) and (g) of this section, in any case where a segment of the Interstate System was a designated part of such System on June 1, 1973, and is entirely within the boundaries of an incorporated city and such city enters into an agreement with the Secretary to pay all non-Federal costs of construction of such segment, such segment shall be constructed.

§ 104. Apportionment

(a) Whenever an apportionment is made of the sums authorized to be appropriated for expenditure upon the Federal-aid systems, the Secretary shall deduct a sum, in such amount not to exceed 3¾ per centum of all sums so authorized, as the Secretary may deem necessary for administering the provisions of law to be financed from appropriations for the Federal-aid systems and for carrying on the research authorized by subsections (a) and (b) of section 307 of this title. In making such determination, the Secretary shall take into account the unexpended balance of any sums deducted

for such purposes in prior years. The sum so deducted shall be available for expenditure from the unexpended balance of any appropriation made at any time for expenditure upon the Federal-aid systems, until such sum has been expended.

(b) On October 1 of each fiscal year except as provided in paragraphs (4) and (5) of this subsection, the Secretary, after making the deduction authorized by subsection (a) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure upon the Federal-aid systems for that fiscal year, among the several States in the following manner:

(1) For the Federal-aid primary system (including extensions in urban areas and priority primary routes)—

Two-thirds according to the following formula: one-third in the ratio which the area of each State bears to the total area of all the States, one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census, and one-third in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bear to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, as shown by a certificate of the Postmaster General, which he is directed to make and furnish annually to the Secretary; and one-third as follows: in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment.

(2) For the Federal-aid secondary system:

One-third in the ratio which the area of each State bears to the total area of all the States; one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census; and one-third in the ratio which the mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, certified as above provided, in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in all the States. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment.

(3) [Repealed P.L. 94-280].

(4) For the Interstate System, for the fiscal years ending June 30, 1957, June 30, 1958, and June 30, 1959:

One-half in the ratio which the population of each State bears to the total population of all the States as shown by the latest available Federal census, except that no States shall receive less than three-fourths of 1 per centum of the funds so apportioned; and one-half in the manner provided in paragraph (1) of this subsection. The sums authorized by section 108(b) of the Federal-Aid Highway Act of 1956 for the fiscal years ending June 30, 1958, and June 30, 1959, shall be apportioned on a date not less than six months and not more than twelve months in advance of the beginning of the fiscal year for which authorized.

(5)(A) Except as provided in subparagraph (B)—For the Interstate System for the fiscal years 1960 through 1990:

For the fiscal years 1960 through 1966, in the ratio which the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of completing the Interstate System in all of the States. For the fiscal year 1967 through 1990, in the ratio which the Federal share of the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of the Federal share of completing the Interstate System in all of the States. Each apportionment herein authorized for the fiscal years 1960 through 1990, inclusive, shall be made on October 1 of the year preceding the fiscal year for which authorized.

As soon as the standards provided for in subsection (b) of section 109 of this title have been adopted, the Secretary, in cooperation with the State highway departments, shall make a detailed estimate of the cost of completing the Interstate System as then designated, after taking into account all previous apportionments made under this section, based upon such standards and in accordance with rules and regulations adopted by him and applied uniformly to all of the States. The Secretary shall transmit such estimates to the Senate and the House of Representatives within ten days subsequent to January 2, 1958. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1960, June 30, 1961, and June 30, 1962. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1961. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1963, June 30, 1964, June 30, 1965, and June 30, 1966. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1965. Upon the approval of such estimate by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1968. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1970, and June 30, 1971. The

Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives on April 20, 1970. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1972, and June 30, 1973. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1972. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1975. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making the apportionment for the fiscal year ending September 30, 1977. The Secretary shall make the apportionment for the fiscal year ending September 30, 1978, in accordance with section 103 of the Federal-Aid Highway Act of 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1977. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1979, and September 30, 1980. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1979. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1981, and September 30, 1982. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1981. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending September 30, 1983, and September 30, 1984. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this

section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1983. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1985, and September 30, 1986. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1985. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1987, and September 30, 1988. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1987. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1989, and September 30, 1990. Whenever the Secretary, pursuant to this subsection, requests and receives estimates of cost from the State highway departments, he shall furnish copies of such estimates at the same time to the Senate and the House of Representatives. The Secretary shall not include in any estimate submitted under this provision after December 31, 1978, any cost of a project to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967. Notwithstanding any other provisions of this subparagraph, the Secretary in making the revised estimate of the cost of completing the then designated Interstate System for the purpose of transmitting it to the Senate and House of Representatives within ten days subsequent to January 2, 1983, or thereafter, shall include only those costs eligible for funds authorized by subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, including the amendments made by section 4 of the Federal-Aid Highway Act of 1981.

(B) For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System:

55 per centum in the ratio that lane miles on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 45 per centum in the ratio that vehicle miles traveled on lanes on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such vehicle miles in all States. Notwithstanding the preceding sentence, no State excluding any State that has no interstate lane miles shall re-

ceive less than one-half of 1 per centum of the total apportionment made by this subparagraph for any fiscal year.

(6) For the Federal-aid urban system:

In the ratio which the population in urban areas, or parts thereof, in each State bears to the total population in such urban areas, or parts thereof, in all the States as shown by the latest available Federal census. No State shall receive less than one-half of 1 per centum of each year's apportionment.

(c)(1) Subject to subsection (d), the amount apportioned in any fiscal year, commencing with the apportionment of funds authorized to be appropriated under subsection (a) of section 102 of the Federal-Aid Highway Act of 1956 (70 Stat. 374), to each State in accordance with paragraph (1) or (2) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such a transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest.

(2) Subject to subsection (d), the amount apportioned in any fiscal year to each State in accordance with paragraph (1) or (6) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. Funds apportioned in accordance with paragraph (6) of subsection (b) of this section shall not be transferred from their allocation to any urbanized area of two hundred thousand population or more under section 150 of this title, without the approval of the local officials of such urbanized area.

(d) Each transfer of apportionments under subsection (c) of this section shall be subject to the following conditions:

(1) In the case of transfers under paragraph (1), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

(2) In the case of transfers under paragraph (2), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

(3) No transfer shall be made from an apportionment during any fiscal year if during such fiscal year a transfer has been made to such apportionment.

(4) No transfer shall be made to an apportionment during any fiscal year if during such fiscal year a transfer has been made from such apportionment.

(e) On October 1 of each fiscal year the Secretary shall certify to each of the State highway departments the sums which he has apportioned hereunder (other than under subsection (b)(5) of this section) to each State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsec-

tion (a) of this section. On October 1 of the year preceding the fiscal year for which authorized, the Secretary shall certify to each of the State highway departments the sums which he has apportioned under subsection (b)(5) of this section to each State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section. To permit the States to develop adequate plans for the utilization of apportioned sums the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year for which the sums to be apportioned are authorized, except that in the case of the Interstate System the Secretary shall advise each State ninety days prior to the apportionment of such funds.

(f)(1) On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carrying out the requirements of section 134 of this title, except that in the case of funds authorized for apportionment on the Interstate System, the Secretary shall set aside that portion of such funds (subject to the overall limitation of one-half of 1 per centum) on October 1 of the year next preceding the fiscal year for which such funds are authorized for such System.

(2) These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half per centum of the amount apportioned.

(3) The funds apportioned to any State under paragraph (2) of this subsection shall be made available by the State to the metropolitan planning organizations designated by the State as being responsible for carrying out the provisions of section 134 of this title, except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas. These funds shall be matched in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

(4) The distribution within any State of the planning funds made available to agencies under paragraph (3) of this subsection shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, and metropolitan area transportation needs.

(g) Not more than 40 per centum of the amount apportioned in any fiscal year to each State in accordance with sections 144, 152, and 153 of this title, or section 203(d) of the Highway Safety Act of 1973, may be transferred from the apportionment under one section to the apportionment under any other of such sections if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secre-

tary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State highway department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State highway department that the purposes of the program from which such funds are to be transferred have been met. All or any part of the funds apportioned in any fiscal year to a State in accordance with section 203(d) of the Highway Safety Act of 1973 from funds authorized in section 203(c) of such Act, may be transferred from that apportionment to the apportionment made under section 219 of this title if such transfer is requested by the State highway department and is approved by the Secretary after he has received satisfactory assurances from such department that the purposes of such section 203 have been met. Nothing in this subsection authorizes the transfer of any amount apportioned from the Highway Trust Fund to any apportionment the funds for which were not from the Highway Trust Fund, and nothing in this subsection authorizes the transfer of any amount apportioned from funds not from the Highway Trust Fund to any apportionment the funds for which were from the Highway Trust Fund.

(h) The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year.

§ 105. Programs

(a) As soon as practicable after the apportionments for the Federal-aid systems have been made for any fiscal year, the State highway department of any State desiring to avail itself of the benefits of this chapter shall submit to the Secretary for his approval a program or programs of proposed projects for the utilization of the funds apportioned. The Secretary shall act upon programs submitted to him as soon as practicable after the same have been submitted. The Secretary may approve a program in whole or in part, but he shall not approve any project in a proposed program which is not located upon an approved Federal-aid system.

(b) In approving programs for projects on the Federal-aid secondary system, the Secretary shall require that such projects be selected by the State highway department and the appropriate local officials in cooperation with each other, except in States where all public roads and highways are under the control and supervision of the State highway department, such selection shall be made after consultation with appropriate local officials.

(c) In approving programs for projects on the Federal-aid primary system, the Secretary shall give preference to such projects as will

expedite the completion of an adequate and connected system of highways interstate in character.

(d) In approving programs for projects on the Federal-aid urban system, the Secretary shall require that such projects be selected by the appropriate local officials with the concurrence of the State highway department of each State and, in urbanized areas, also in accordance with the planning process required pursuant to section 134 of this title.

(e) In approving programs for projects under this chapter, the Secretary may give priority of approval to, and expedite the construction of, projects that are recommended as important to the national defense by the Secretary of Defense, or other official authorized by the President to make such recommendation.

(f) In approving programs for projects on the Federal-aid systems pursuant to chapter 1 of this title, the Secretary shall give priority to those projects which incorporate improved standards and features with safety benefits.

(g) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments shall give consideration to projects providing direct and convenient public access to public airports, public ports for water transportation, new town communities, and new town-intown communities, and in approving such programs the Secretary shall give consideration to such projects.

(h) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments may give priority to projects for the reconstruction, resurfacing, restoration, or rehabilitation of highways which are incurring a substantial use as a result of transportation activities to meet national energy requirements and which will continue to incur such use, and in approving such programs the Secretary may give priority to such projects.

§ 106. Plans, specifications, and estimates

(a) Except as provided in section 117 of this title, the State highway department shall submit to the Secretary for his approval, as soon as practicable after program approval, such surveys, plans, specifications, and estimates for each proposed project included in an approved program as the Secretary may require. The Secretary shall act upon such surveys, plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

(b) In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction on (1) the Federal-aid secondary system, except in States where all public roads and highways are under the control and supervision of the State highway department, and (2) the Federal-aid urban system, shall be determined by the State highway department and the appropriate local road officials in cooperation with each other.

(c) Items included in any such estimate for construction engineering shall not exceed 10 per centum of the total estimated cost of a

project financed with Federal-aid highway funds, after excluding from such total estimate cost, the estimated costs of rights-of-way, preliminary engineering, and construction engineering. However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.

(d) In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid system shall be accompanied by a value engineering or other cost reduction analysis.

§ 107. Acquisition of rights-of-way—Interstate System

(a) In any case in which the Secretary is requested by a State to acquire lands or interests in lands (including within the term "interests in lands", the control of access thereto from adjoining lands) required by such State for right-of-way or other purposes in connection with the prosecution of any project for the construction, reconstruction, or improvement of any section of the Interstate System, the Secretary is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of such lands or interests in lands by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including the Act of February 26, 1931, 46 Stat. 1421), if—

(1) the Secretary has determined either that the State is unable to acquire necessary lands or interests in lands, or is unable to acquire such lands or interests in lands with sufficient promptness; and

(2) the State has agreed with the Secretary to pay, at such time as may be specified by the Secretary an amount equal to 10 per centum of the costs incurred by the Secretary, in acquiring such lands or interests in lands, or such lesser percentage which represents the State's pro rata share of project costs as determined in accordance with subsection (c) of section 120 of this title.

The authority granted by this section shall also apply to lands and interests in lands received as grants of land from the United States and owned or held by railroads or other corporations.

(b) The costs incurred by the Secretary in acquiring any such lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition. All costs incurred by the Secretary in connection with the acquisition of any such lands or interests in lands shall be paid from the funds for construction, reconstruction, or improvement of the Interstate System apportioned to the State upon the request of which such lands or interests in lands are acquired, and any sums paid to the Secretary by such State as its share of the costs of acquisition of such lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation of Federal-aid highways and shall be credited to the amount apportioned to such State as its apportionment of funds for construction, reconstruction, or improvement of the Interstate System, or shall be deducted from other moneys due the State for reimbursement from funds authorized to be appropriated under section 108(b) of the Federal-Aid Highway Act of 1956.

(c) The Secretary is further authorized and directed by proper deed, executed in the name of the United States, to convey any such lands or interests in lands acquired in any State under the provisions of this section, except the outside five feet of any such right-of-way in any State which does not provide control of access, to the State highway department of such State or such political subdivision thereof as its laws may provide, upon such terms and conditions as to such lands or interests in lands as may be agreed upon by the Secretary and the State highway department or political subdivisions to which the conveyance is to be made. Whenever the State makes provision for control of access satisfactory to the Secretary, the outside five feet then shall be conveyed to the State by the Secretary, as herein provided.

(d) Whenever rights-of-way, including control of access, on the Interstate System are required over lands or interests in lands owned by the United States, the Secretary may make such arrangements with the agency having jurisdiction over such lands as may be necessary to give the State or other person constructing the projects on such lands adequate rights-of-way and control of access thereto from adjoining lands, and any such agency is directed to cooperate with the Secretary in this connection.

§ 108. Advance acquisition of rights-of-way

(a) For the purpose of facilitating the acquisition of rights-of-way on any of the Federal-aid highway systems, including the Interstate System, in the most expeditious and economical manner, and recognizing that the acquisition of rights-of-way requires lengthy planning and negotiations if it is to be done at a reasonable cost, the Secretary, upon the request of the State highway department, is authorized to make available the funds apportioned to any State for expenditure on any of the Federal-aid highway systems, including the Interstate System, for acquisition of rights-of-way, in anticipation of construction and under such rules and regulations as the Secretary may prescribe. The agreement between the Secretary and the State highway department for the reimbursement of the cost of such rights-of-way shall provide for the actual construction of a road on such rights-of-way within a period not exceeding ten years following the fiscal year in which such request is made unless a longer period is determined to be reasonable by the Secretary.

(b) Federal participation in the cost of rights-of-way acquired under subsection (a) of this section shall not exceed the Federal pro rata share applicable to the class of funds from which Federal reimbursement is made.

(c)(1) There is hereby established in the Treasury of the United States a revolving fund to be known as the right-of-way revolving fund which shall be administered by the Secretary in carrying out the provisions of this subsection. Sums authorized to be appropriated to the right-of-way revolving fund shall be available for expenditure without regard to the fiscal year for which such sums are authorized.

(2) For the purpose of acquiring rights-of-way for future construction of highways on any Federal-aid system and for making payments for the moving or relocation of persons, businesses, farms,

and other existing uses of real property caused by the acquisition of such rights-of-way, in addition to the authority contained in subsection (a) of this section, the Secretary, upon request of a State highway department, is authorized to advance funds, without interest, to the State from amounts available in the right-of-way revolving fund, in accordance with rules and regulations prescribed by the Secretary. Funds so advanced may be used to pay the entire costs of projects for the acquisition of rights-of-way, including the net cost to the State of property management, if any, and related moving and relocation payments.

(3) Actual construction of a highway on rights-of-way, with respect to which funds are advanced under this subsection, shall be commenced within a period of not less than two years nor more than ten years following the end of the fiscal year in which the Secretary approves such advance of funds, unless the Secretary, in his discretion, shall provide for an earlier or later termination date. Immediately upon the termination of the period of time within which actual construction must be commenced, in the case of any project where such construction is not commenced before such termination, or upon approval by the Secretary of the plans, specifications, and estimates for such project for the actual construction of a highway on rights-of-way with respect to which funds are advanced under this subsection, whichever shall occur first, the right-of-way revolving fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120 of this title, out of any Federal-aid highway funds apportioned to the State in which such project is located and available for obligation for projects on the Federal-aid system of which such project is to be a part, and the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the right-of-way revolving fund.

§ 109. Standards

(a) The Secretary shall not approve plans and specifications for proposed projects on any Federal-aid system if they fail to provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State highway departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project. Such standards shall in all cases provide for at least four lanes of traffic. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards.

The Secretary shall apply such standards uniformly throughout all the States.

(c) Projects on the Federal-aid secondary system in which Federal funds participate shall be constructed according to specifications that will provide all-weather service and permit maintenance at a reasonable cost.

(d) On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational. regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State highway department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways.

(e) No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper safety protective devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and railroad grade crossing or drawbridge on that portion of the highway with respect to which such expenditures are to be made.

(f) The Secretary shall not, as a condition precedent to his approval under section 106 of this title, require any State to acquire title to, or control of, any marginal land along the proposed highway in addition to that reasonably necessary for road surfaces, median strips, bikeways, gutters, ditches, and side slopes, and of sufficient width to provide service roads to adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking.

(g) The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970 guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decision on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

(1) air, noise, and water pollution;

(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

(3) adverse employment effects, and tax and property values losses;

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(4) injurious displacement of people, businesses and farms; and

(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards. The Secretary, after consultation with the Administrator of the Environmental Protection Agency and appropriate Federal, State, and local officials, may promulgate standards for the control of highway noise levels for highways in any Federal-aid system for which project approval has been secured prior to July 1, 1972. The Secretary may approve any project on a Federal-aid system to which noise-level standards are made applicable under the preceding sentence for the purpose of carrying out such standards. Such project may include, but is not limited to, the acquisition of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the Federal-aid system on which such project will be located shall be available to finance the Federal share of such project. Such project shall be deemed a highway project for all purposes of this title.

(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended.

(k) The Secretary shall not approve any project involving approaches to a bridge under this title, if such project and bridge will significantly affect the traffic volume and the highway system of a contiguous State without first taking into full consideration the views of that State.

(l)(1) In determining whether any right-of-way on any Federal-aid system should be used for accommodating any utility facility, the Secretary shall—

(A) first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized or otherwise permitted, under this or any other provision of law, which would adversely affect safety;

(B) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

(C) consider such environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use

of such right-of-way for the accommodation of such utility facility.

(2) For the purpose of this subsection—

(A) the term "utility facility" means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; and

(B) the term "right-of-way" means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.

(m) The Secretary shall issue guidelines describing the criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed. The initial guidelines shall be issued no later than October 1, 1979.

(n) The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.

(o) It is the intent of Congress that any project for resurfacing, restoring, or rehabilitating any highway, other than a highway access to which is fully controlled, in which Federal funds participate shall be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety.

§ 110. Project agreements

(a) As soon as practicable after the plans, specifications, and estimates for a specific project have been approved, the Secretary shall enter into a formal project agreement with the State highway department concerning the construction and maintenance of such project. Such project agreement shall make provision for State funds required for the State's pro rata share of the cost of construction of such project and for the maintenance thereof after completion of construction.

(b) The Secretary may rely upon representations made by the State highway department with respect to the arrangements or agreements made by the State highway department and appropriate local officials where a part of the project is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

§ 111. Agreements relating to use of and access to rights-of-way—Interstate System

All agreements between the Secretary and the State highway department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the

prior approval of the Secretary. Such agreements shall also contain a clause providing that the State will not permit automotive service stations or other commercial establishments for serving motor vehicle users to be constructed or located on the rights-of-way of the Interstate System. Such agreements may, however, authorize a State or political subdivision thereof to use or permit the use of the airspace above and below the established grade line of the highway pavement for such purposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere in any way with the free flow of traffic on the Interstate System. Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established for such a highway under this title.

§ 112. Letting of contracts

(a) In all cases where the construction is to be performed by the State highway department or under its supervision, a request for submission of bids shall be made by advertisement unless some other method is approved by the Secretary. The Secretary shall require such plans and specifications and such methods of bidding as shall be effective in securing competition.

(b) Construction of each project, subject to the provisions of subsection (a) of this section, shall be performed by contract awarded by competitive bidding, unless the State highway department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.

(c) The Secretary shall require as a condition precedent to his approval of each contract awarded by competitive bidding pursuant to subsection (b) of this section, and subject to the provisions of this section, a sworn statement, executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract.

(d) No contract awarded by competitive bidding pursuant to subsection (b) of this section, and subject to the provisions of this sec-

tion, shall be entered into by any State highway department or local subdivision of the State without compliance with the provisions of this section, and without the prior concurrence of the Secretary in the award thereof.

(e) The provisions of this section shall not be applicable to contracts for projects on the Federal-aid secondary system in those States where the Secretary has discharged his responsibility pursuant to section 117 of this title, except where employees of a political subdivision of a State are working on a project outside of such political subdivision.

§ 113. Prevailing rate of wage

(a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on the construction work performed on highway projects on the Federal-aid systems, the primary and secondary, as well as their extension in urban areas, and the Interstate System, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems, shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of August 30, 1935, known as the Davis-Bacon Act (40 U.S.C. 267a).[1]

(b) In carrying out the duties of subsection (a) of this section, the Secretary of Labaor shall consult with the highway department of the State in which a project on any of the Federal-aid systems is to be performed. After giving due regard to the information thus obtained, he shall make a predetermination of the minimum wages to be paid laborers and mechanics in accordance with the provisions of subsection (a) of this section which shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project.

(c) The provisions of the section shall not be applicable to employment pursuant to apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting equal employment opportunity in connection with Federal-aid highway construction programs.

§ 114. Construction

(a) The construction of any highways or portions of highways located on a Federal-aid system shall be undertaken by the respective State highway departments or under their direct supervision. Except as provided in section 117 of this title, such construction shall be subject to the inspection and approval of the Secretary. The construction work and labor in each State shall be performed under the direct supervision of the State highway department and in accordance with the laws of that State and applicable Federal laws. Construction may be begun as soon as funds are available for expenditure pursuant to subsection (a) of section 118 of this title. After July 1, 1973, the State highway department shall not erect on any project where actual construction is in progress and visible

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[1] So in original. Probably should be 40 U.S.C. 276a.

to highway users any informational signs other than official traffic control devices conforming with standards developed by the Secretary of Transportation.

(b) Convict labor or materials produced by convict labor shall not be used in such construction unless it is labor performed by convicts who are on parole, supervised release, or probation.[2]

§ 115. Construction by States in advance of apportionment

(a)(1) When a State has obligated all funds apportioned or allocated to it under section 103(e)(4), 104, or 144 of this title, other than Interstate funds, and proceeds to construct any highway substitute, Federal-aid system, or bridge project, respectively, other than an Interstate project funded under section 104(b)(5) of this title, without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 103(e)(4), 104, or 144, respectively, of this title if—

(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and

(B) the project conforms to the applicable standards adopted under section 109 of this title.

(2) The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, or 144 of this title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations.

(b)(1) When a State proceeds to construct any project on the Interstate System without the aid of Federal funds, as that System may be designated at that time, in accordance with all procedures and all requirements applicable to projects on such System, except insofar as such procedures and requirements limit a State to the contruction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the cost of construction of such project when additional funds are apportioned to such State under section 104 of this title if—

(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects on the Interstate System, and

(B) the project conforms to the applicable standards under section 109 of this title.

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[2] Section 202 of the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriation Act, 1985 provided as follows:

"Sec. 202. Notwithstanding any other provision of law or this Act, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code."

(2) For any project under construction January 1, 1983, on the Interstate System and converted to a regularly funded project after January 1, 1983, for which the proceeds of bonds issued by the State, county, city, or other political subdivision of the State were used, any interest earned and payable on such bonds by the date of conversion is an eligible cost of construction, to the extent that the proceeds of such bonds have actually been expended in the construction of such projects.

(3) Subject to the provisions of this paragraph, the cost of construction of a project, the Federal share of which the Secretary is authorized to pay under this subsection, shall include the amount of any interest earned and payable on bonds issued by the State to the extent that the proceeds of such bonds have actually been expended in the construction of such project. In no event shall the amount of interest considered as a cost of construction of a project under the preceding sentence be greater than the excess of (A) the amount which would be the estimated cost of construction of the project if the project were to be constructed at the time the project is converted to a regularly funded project, over (B) the actual cost of construction of such project (not including such interest). The Secretary shall consider changes in construction cost indices in determining the amount under clause (A) of this paragraph.

(c) In determining the apportionment for any fiscal year under the provisions of section 103(e)(4), 104, or 144 of this title, any such project constructed by a State without the aid of Federal funds shall not be considered completed until an application under the provisions of this section with respect to such project has been approved by the Secretary.

§ 116. Maintenance

(a) It shall be the duty of the State highway department to maintain, or cause to be maintained, any project constructed under the provisions of this chapter or constructed under the provisions of prior Acts. The State's obligation to the United States to maintain any such project shall cease when it no longer constitutes a part of a Federal-aid system.

(b) In any State wherein the State highway department is without legal authority to maintain a project constructed on the Federal-aid secondary system, or within a municipality, such highway department shall enter into a formal agreement for its maintenance with the appropriate officials of the county or municipality in which such project is located.

(c) If at any time the Secretary shall find that any project constructed under the provisions of this chapter, or constructed under the provisions of prior Acts, is not being properly maintained, he shall call such fact to the attention of the State highway department. If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which such project is located, whichever the Secretary deems most appropriate, until such project shall have been put in proper condition of maintenance.

(d) The Secretary in consultation with the State highway departments and interested and knowledgeable private organizations and individuals shall as soon as possible establish national bridge inspection standards in order to provide for the proper safety inspection of bridges. Such standards shall specify in detail the method by which inspections shall be conducted by the State highway departments, the maximum time lapse between inspections and the qualifications for those charged with the responsibility for carrying out such inspections. Each State shall be required to maintain written reports to be available to the Secretary pursuant to such inspections together with a notation of the action taken pursuant to the findings of such inspections. Each State shall be required to maintain a current inventory of all bridges.

(e) The Secretary shall establish, in cooperation with the State highway departments, a program designed to train appropriate employees of the Federal Government and the State governments to carry out bridge inspections. Such a program shall be revised from time to time in light of new or improved techniques. For the purpose of this section the Secretary may use funds made available pursuant to the provisions of section 104(a) and section 307(a) of this title.

§ 117. Certification acceptance

(a) The Secretary may discharge any of his responsibilities under this title relative to projects on Federal-aid systems, except the Interstate System, upon the request of any State, by accepting a certification by the State highway department, or that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction, of its performance of such responsibilities, if he finds such projects will be carried out in accordance with State laws, regulations, directives, and standards which will accomplish the policies and objectives contained in or issued pursuant to this title.

(b) The Secretary shall make a final inspection of each such project upon its completion and shall require an adequate report of the estimated, and actual, cost of construction as well as such other information as he determines necessary.

(c) The procedure authorized by this section shall be an alternative to that otherwise prescribed in this title. The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this section.

(d) Acceptance by the Secretary of a State's certification under this section may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do.

(e) Nothing in this section shall affect or discharge any responsibility or obligation of the Secretary under any Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), section 303 of title 49, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d), et seq.), title VIII of the Act of April 11, 1968 (Public Law 90-284, 42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), other than this title.

(f)(1) In the case of the Federal-aid secondary system, in lieu of discharging his responsibilities in accordance with subsections (a)

through (d) of this section, the Secretary may, upon the request of any State highway department, discharge his responsibility relative to the plans, specifications, estimates, surveys, contract awards, design, inspection, and construction of all projects on the Federal-aid secondary system by his receiving and approving a certified statement by the State highway department setting forth that the plans, design, and construction for each such project are in accord with those standards and procedures which (A) were adopted by such State highway department, (B) were applicable to projects in this category, and (C) were approved by him.

(2) The Secretary shall not approve such standards and procedures unless they are in accordance with the provisions of subsection (b) of section 105, subsection (b) of section 106, and subsection (c) of section 109 of this title

(3) Paragraphs (1) and (2) of this subsection shall not be construed to relieve the Secretary of his obligation to make a final inspection of each project after construction and to require an adequate showing of the estimated cost of construction and the actual cost of construction.

§ 118. Availability of sums apportioned

(a) On and after the date that the Secretary has certified to each State highway department the sums apportioned to each Federal-aid system or part thereof pursuant to an authorization under this title, or under prior Acts, such sums shall be available for expenditure under the provisions of this title.

(b)(1) Sums apportioned to each Federal-aid system (other than the Interstate System) shall continue available for expenditure in that State for the appropriate Federal-aid system or part thereof (other than the Interstate System) for a period of three years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse.

(2) Except as otherwise provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence shall be made available by the Secretary for projects on the Interstate System (other than projects for which sums are apportioned under section 104(b)(5)(B)) in accordance with the following priorities: First, for high cost projects which directly contribute to the completion of an Interstate segment which is not open to traffic; and second, for projects of high cost in relation to a State's apportionment. Sums may only be made available under this paragraph in any State if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) apply the funds to a ready-to-commence project; and (B) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

(3) Any amount apportioned to the States for the Interstate System under subsection (b)(5)(B) of section 104 of this title shall continue to be available for expenditure in that State for a period of two years after the close of the fiscal year for which such sums are authorized. Sums not obligated within the time period prescribed by the preceding sentence shall be made available by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System to any other State applying for such funds, if the Secretary determines that the State has obligated all of its apportionments under such subsection other than an amount which, by itself, is insufficient to pay the Federal share of the cost of such a project which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (A) obligate the funds within one year of the date the funds are made available; (B) apply them to a ready-to-commence project; and (C) in the case of construction work, begin work within ninety days of obligation. Sums made available under this paragraph shall remain available until expended.

(4) Sums apportioned to a Federal-aid system for any fiscal year shall be deemed to be expended if a sum equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is obligated. Any Federal-aid highway funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds, primary, secondary, urban, or interstate, previously apportioned to the State and be immediately available for expenditure.

(c) Before any apportionment is made under section 104(b)(5)(A) of this title for a fiscal year beginning after September 30, 1983, the Secretary shall set aside $300,000,000. Such amount shall be available only for obligation by the Secretary in accordance with subsection (b)(2) of this section.

(d) In addition to amounts otherwise available to carry out this section, an amount equal to the amount by which the unobligated apportionment for the Interstate System in any State is reduced under section 103(e)(4) of this title on account of the withdrawal of a route or portion thereof on the Interstate System, which withdrawal is approved after the date of enactment of this subsection, shall be available to the Secretary for obligation in accordance with subsection (b)(2) of this section.

(e) The total payments to any State shall not at any time during a current fiscal year exceed the total of all apportionments to such State in accordance with section 104 of this title for such fiscal year and all preceding fiscal years.

(f) Funds made available to the State of Alaska under this title may be expended for construction of access and development roads on a Federal-aid system that will serve resource development, recreational, residential, commercial, industrial, or other like purposes.

§ 119. Interstate System resurfacing

(a) The Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System designated under sections 103 and 139(c) of this title and routes on the Interstate System designated before the date of enactment of

this sentence under section 139(a) and (b) of this title; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978. Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title. The Federal share for any project under this subsection shall be that set forth in section 120(c) of this title.

(b) Not later than one year after the date of issuance of initial guidelines under section 109(m) of this title each State shall have a program for the Interstate system in accordance with such guidelines. Each State shall certify on January 1st of each year that it has such a program and the Interstate system is maintained in accordance with the program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate system in accordance with such program then the next apportionment of funds to such State for the Interstate system shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title. If, within one year from the date the apportionment for a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate system in accordance with the guidelines the apportionment of such State shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year period the amount so withheld shall be reapportioned to all other eligible States.

(c) Reconstructing as authorized in subsection (a) of this section may include, but is not limited to, the addition of travel lanes and the construction and reconstruction of interchanges and overcrossings along existing completed interstate routes, including the acquisition of right-of-way where necessary.

(d) Upon application by a State and approval by the Secretary, the Secretary may authorize the transfer of so much of the amount apportioned to such State for any fiscal year under paragraph (5)(A) of subsection (b) of section 104 of this title, as does not exceed the Federal share of the cost of segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes), in the most recent cost estimate, to the apportionment under paragraph (5)(B) of subsection (b) of section 104 of this title, except that not more than 50 per centum of the total apportionment under such paragraph (5)(A) for a fiscal year shall be transferred under this subsection for such fiscal year. The next cost estimate submitted to Congress under paragraph (5)(A) of subsection (b) of such section 104 of the cost of completing segments of the Interstate System open to traffic in that State (other than high occupancy vehicle lanes) shall be reduced for such State in an amount equal to the amount transferred under this subsection.

§ 120. Federal share payable

(a) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, financed with primary, secondary, or urban funds, on the Federal-aid primary

system, the Federal-aid secondary system, and the Federal-aid urban system shall either (A) not exceed 75 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area, or (B) not exceed 75 per centum of cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that the Federal share payable on any project in a State shall not exceed 95 per centum of the total cost of any such project. In any case where a State elects to have the Federal share provided in clause (B) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than one year, requiring such State to use solely for highway construction purposes (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in clause (B) and what its share would be if it elected to pay the share provided in clause (A) for all projects subject to such agreement.

(b) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, financed with interstate funds on the Interstate System, authorized to be appropriated prior to June 29, 1956, shall not exceed 60 per centum of the cost of construction, except that in the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area. The provisions of subsection (a) of this section shall apply to any project financed with funds authorized by the provisions of section 2 of the Federal-Aid Highway Act of 1952.

(c) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project on the Interstate System provided for by funds made available under the provisions of section 108(b) of the Federal-Aid Highway Act of 1956 shall be increased to 90 per centum of the total cost thereof, plus a percentage of the remaining 10 per centum of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 per centum of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area, except that such Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of such project. Notwithstanding subsection (a) of this section, the Federal share payable on account of any project financed with primary funds on the Inter-

state System for resurfacing, restoring, rehabilitating, and reconstructing shall be the percentage provided in this subsection.

(d) The Federal share payable on account of any project for the elimination of hazards of railway-highway crossings, as more fully described and subject to the conditions and limitations set forth in section 130 of this title, and for any project for traffic control signalization or for pavement marking or for commuter carpooling and vanpooling, may amount to 100 per centum of the cost of construction of such projects, except that not more than 75 per centum of the right-of-way and property damage costs, paid from public funds, on any such project, may be paid from sums apportioned in accordance with section 104 of this title: *Provided*, That not more than 10 per centum of all the sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection. The Federal share payable on account of any project for traffic control signalization under section 103(e)(4) of this title may amount to 100 per centum of the cost of construction of such project.

(e) The Secretary may rely on a statement from the Secretary of the Interior as to the area of the lands referred to in subsections (a) and (b) of this section. The Secretary of the Interior is authorized and directed to provide such statement annually.

(f) The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title shall not exceed 100 per centum of the cost thereof: *Provided*, That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144 of this title, "a comparable facility" shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life.

(g) The Secretary is authorized to cooperate with the State highway departments and with the Department of the Interior in the construction of Federal-aid highways within Indian reservations and national parks and monuments under the jurisdiction of the Department of the Interior and to pay the amount assumed therefor from the funds apportioned in accordance with section 104 of this title to the State wherein the reservations and national parks and monuments are located.

(h) At the request of any State, the Secretary may from time to time enter into agreements with such State to reimburse the State for the Federal share of the costs of preliminary and construction engineering at an agreed percentage of actual construction costs for each project, in lieu of the actual engineering costs for such project. The Secretary shall annually review each such agreement to insure that such percentage reasonably represents the engineering costs actually incurred by such State.

(i) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under

this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.

(i)[1] The Federal share payable on account of any project financed under section 307(c) of this title shall be 85 per centum, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that such Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of any such project.

(j) Notwithstanding any other provision of this section (other than subsection (i)), of this title, or of any other law, in any case where a State elects to use funds apportioned to it for any Federal-aid system for any project under sections 143, 148, and 155, of this title and for those priority primary routes under section 147 of this title designated in Committee Print Numbered 97-61 of the Committee on Public Works and Transportation of the House of Representatives, and for funds allocated under the provisions of section 155 of this title, and obligated subsequent to January 6, 1983, the Federal share payable on account of such project shall be 95 per centum of the cost thereof, unless—

(1) such project is on land owned by the United States in which case the Federal share shall be 100 per centum of the cost of such project, or

(2) a Federal share of the cost of the project greater than 95 per centum is specifically authorized by law.

(k) Notwithstanding any other provision of this section, the Federal share payable on account of any project under this title to reconstruct, resurface, restore, and rehabilitate any highway which the Secretary determines, at the request of any State, is incurring a substantial use as a result of transportation activities to meet national energy requirements and will continue to incur such use is 85 per centum of the cost of such project.

§ 121. Payment to States for construction

(a) The Secretary may, in his discretion, from time to time as the work progresses, make payments to a State for costs of construction incurred by it on a project. These payments shall at no time exceed the Federal share of the costs of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project. Such payments may also be made in the case of any such materials not in the vicinity of such construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in such vicinity.

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[1] Section 156(c) of Public Law 97-424 added the second subsection (i), but did not redesignate other subsections.

(b) After completion of a project in accordance with the plans and specifications, and approval of the final voucher by the Secretary, a State shall be entitled to payment out of the appropriate sums apportioned to it of the unpaid balance of the Federal share payable on account of such project.

(c) No payment shall be made under this chapter, except for a project located on a Federal-aid system and covered by a project agreement. No final payment shall be made to a State for its costs of construction of a project until the completion of the construction has been approved by the Secretary following inspections pursuant to section 114(a) of this title.

(d) In making payment pursuant to this section, the Secretary shall be bound by the limitations with respect to the permissible amounts of such payments contained in section 120 and 130 of this title. Payments for construction engineering on any project financed with Federal-aid highway funds shall not exceed 10 per centum of the Federal share of the cost of construction of such project after excluding from the cost of construction the costs of rights-of-way, preliminary engineering, and construction engineering. However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.

(e) Such payments shall be made to such official or officials or depository as may be designated by the State highway department and authorized under the laws of the State to receive public funds of the State.

§ 122. Payment to States for bond retirement

Any State that shall use the proceeds of bonds issued by the State, county, city, or other political subdivision of the State for the construction of one or more projects on the Federal-aid primary or Interstate System, or extensions of any of the Federal-aid highway systems in urban areas, or for substitute highway projects approved under section 103(e)(4) of this title, may claim payment of any portion of the sums apportioned to it for expenditure on such system or on highway projects approved under section 103(e)(4) of this title to aid in the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System at their maturities, to the extent that the proceeds of such bonds have been actually expended in the construction of one or more of such projects. Such claim for payment may be made only when all of the provisions of this title have been complied with to the same extent and with the same effect as though payment were to be made to the State under section 121 of this title, instead of this section, and the Federal share payable shall not exceed the pro rata basis of payment authorized in section 120 of this title. This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any such bonds. The payment of interest on such bonds and incidental costs in connec-

tion with the sale of such bonds shall not be included in the estimated cost of completing the Interstate System.

§ 123. Relocation of utility facilities

(a) When a State shall pay for the cost of relocation of utility facilities necessitated by the construction of a project on the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas, Federal funds may be used to reimburse the State for such cost in the same proportion as Federal funds are expended on the project. Federal funds shall not be used to reimburse the State under this section when the payment to the utility violates the law of the State or violates a legal contract between the utility and the State. Such reimbursement shall be made only after evidence satisfactory to the Secretary shall have been presented to him substantiating the fact that the State has paid such cost from its own funds with respect to Federal-aid highway projects for which Federal funds are obligated subsequent to April 16, 1958, for work, including relocation of utility facilities.

(b) The term "utility", for the purposes of this section, shall include publicly, privately, and cooperatively owned utilities.

(c) The term "cost of relocation", for the purposes of this section, shall include the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

§ 124. Advances to States

(a) If the Secretary shall determine that it is necessary for the expeditious completion of projects on any of the Federal-aid systems, including the Interstate System, he may advance to any State out of any existing appropriations the Federal share of the cost of construction thereof to enable the State highway department to make prompt payments for acquisition of rights-of-way, and for the construction as it progresses. The sums so advanced shall be deposited in a special revolving trust fund, by the State official authorized under the laws of the State to receive Federal-aid highway funds, to be disbursed solely upon vouchers approved by the State highway department for rights-of-way which have been or are being acquired, and for construction which has been actually performed and approved by the Secretary pursuant to this chapter. Upon determination by the Secretary that any part of the funds advanced to any State under the provisions of this section are no longer required, the amount of the advance, which is determined to be in excess of current requirements of the State, shall be repaid upon his demand, and such repayments shall be returned to the credit of the appropriation from which the funds were advanced. Any sum advanced and not repaid on demand shall be deducted from sums due the State for the Federal pro rata share of the cost of construction of Federal-aid projects.

(b) Notwithstanding subsection (a) of this section, if the Secretary of Transportation determines that any toll bridge, toll tunnel, or approach thereto, which meets the requirements of section 129 of this title is necessary to complete an essential gap in the Interstate

System then, upon request of State highway department, the Secretary shall at any time during construction of such bridge, tunnel, or approach and for one year after it is opened to traffic, and subject to the conditions and limitations of such section 129, advance to such State 100 per centum of the cost of construction of such bridge, tunnel, or approach. So much of the amount so advanced that exceeds the Federal share of such construction cost shall be repaid to the United States as follows:

(1) 50 per centum within one year of the date such bridge, tunnel, or approach is opened to traffic,

(2) 25 per centum within two years of such date of opening, and

(3) 25 per centum within three years of such date of opening.

Any advance made to a State under this subsection shall be from the funds apportioned to said State for the Interstate System. So much of any advance made to a State under this subsection required to be repaid shall be repaid with interest at a rate determined by the Secretary. If a State receives any advance under this subsection with respect to any toll bridge, tunnel, or approach thereto, then the provisions of section 103(e)(4) of this title shall not apply to such bridge, tunnel, or approach.

§ 125. Emergency relief

(a) An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for the repair or reconstruction of highways, roads, and trails which the Secretary shall find have suffered serious damage as the result of (1) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (2) catastrophic failures from any external cause, in any part of the United States. In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to structural deficiencies or physical deterioration. Subject to the following limitations, there is hereby authorized to be appropriated from the Highway Trust Fund such sums as may be necessary to establish the funds authorized by this section and to replenish it on an annual basis: (1) Not more than $50,000,000 is authorized to be expended in any fiscal year ending before July 1, 1972, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after June 30, 1972, and ending before June 1, 1976, to carry out the provisions of this section and an additional amount not to exceed $100,000,000 is further authorized to be expended in the fiscal year ending June 30, 1973, to carry out the provisions of this section, and not more than $25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, is authorized to be expended to carry out the provisions of this section, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1976, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1980, to carry out the provisions of this section, except that, if in any fiscal year the total of all expenditures under this section is less than the

amount authorized to be expended in such fiscal year, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amounts otherwise available to carry out this section in such years, and (2) prior to the fiscal year ending September 30, 1978, 60 per centum of the expenditures under this section for any fiscal year are authorized to be appropriated from the Highway Trust Fund and the remaining 40 per centum of such expenditures are authorized to be appropriated only from any moneys in the Treasury not otherwise appropriated, and for any fiscal year thereafter, 100 per centum of such expenditures are authorized to be appropriated out of the Highway Trust Fund. For the purposes of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977. Pending such appropriation or replenishment the Secretary may expend from any funds heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriations herein authorized when made.

(b) The Secretary may expend funds from the emergency fund herein authorized for the repair or reconstruction of highways on the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors, in accordance with the provisions of this chapter: *Provided,* That obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (c) of this section, resulting from a single natural disaster or a single catastrophic failure shall not exceed $30,000,000 in any State. Notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors. Except as to highways, roads, and trails mentioned in subsection (c) of this section, no funds shall be so expended unless the Secretary has received an application therefor from the State highway department, and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared such emergency to be a major disaster for the purposes of the Disaster Relief Act of 1974 (Public Law 93-288) concurrence of the Secretary is not required.

(c) The Secretary may expend funds from the emergency fund herein authorized, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are routes functionally classified as arterials or major collectors.

§ 126. Diversion

(a) Since it is unfair and unjust to tax motor-vehicle transportation unless the proceeds of such taxation are applied to the construction, improvement, or maintenance of highways, after June 30, 1935, Federal aid for highway construction shall be extended only to those States that use at least the amounts provided by law on June 18, 1934, for such purposes in each State from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators of all kinds for the construction, improvement, and maintenance of highways and administrative expenses in connection therewith, including the retirement of bonds for the payment of which such revenues have been pledged, and for no other purposes, under such regulations as the Secretary of Transportation shall promulgate from time to time.

(b) In no case shall the provisions of this section operate to deprive any State of more than one-third of the entire apportionment authorized under this chapter to which that State would be entitled in any fiscal year. The amount of any reduction in a State's apportionment shall be reapportioned in the same manner as any other unexpended balance at the end of the period during which it otherwise would be available in accordance with section 104(b) of this title.

§ 127. Vehicle weight limitations—Interstate System

(a) No funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned to any State which does not permit the use of the National System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more. However, the maximum gross weight to be allowed by any State for vehicles using the National System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W = 500\left(\frac{LN}{N-1} + 12N + 36\right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may

carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided,* That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956 except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof which the State determines could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

(b) No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway System to terminals and facilities for food, fuel, repairs, and rest.

§ 128. Public hearings

(a) Any State highway department which submits plans for a Federal-aid highway project involving the bypassing of, or going through, any city, town, or village, either incorporated or unincorporated, shall certify to the Secretary that it has had public hearings, or has afforded the opportunity for such hearings, and has considered the economic and social effects of such a location, its impact on the environment, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community. Any State highway department which submits plans for an Interstate System project shall certify to the Secretary that it has had public hearings at a convenient location, or has afforded the opportunity for such hearings, for the purpose of enabling persons in rural areas through or contiguous to whose property the highway will pass to express any objections they may have to the proposed locations of such highway. Such certification shall be accompanied by a report which indicates the consideration given to the economic, social, environmental, and other effects of the plan or highway location or design and various alternatives which were raised during the hearing or which were otherwise considered.

(b) When hearings have been held under subsection (a), the State highway department shall submit a copy of the transcript of said

hearings to the Secretary, together with the certification and report.

§ 129. Toll roads, bridges, tunnels, and ferries

(a) Notwithstanding the provisions of section 301 of this title, the Secretary may permit Federal participation, on the same basis and in the same manner as in the construction of free highways under this chapter, in the construction of any toll bridge, toll tunnel, or approach thereto, upon compliance with the conditions contained in this section. Such bridge, tunnel, or approach thereto, must be publicly owned and operated. Federal funds may participate in the approaches to a toll bridge or toll tunnel whether such bridge or tunnel is to be or has been constructed, or acquired, by the State or other public authority. The State highway department or departments must be a party or parties to an agreement with the Secretary whereby it or they undertake performance of the following obligations:

(1) all tolls received from the operation of the bridge or tunnels, less the actual cost of such operation and maintenance, shall be applied to the repayment to the State or other public authority of all of the costs of construction or acquisition of such bridge or tunnel, except that part which was contributed by the United States;

(2) no tolls shall be charged for the use of such bridge or tunnel after the State or other public authority shall have been so repaid; and

(3) after the date of final repayment, the bridge or tunnel shall be maintained or operated as a free bridge or free tunnel; except in the case of a bridge which connects the United States with any foreign country: *Provided*, That such tolls or charges do not exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management: *And further provided*, That the entity or governmental instrumentality responsible for the operation of the portion of the bridge within the jurisdiction of the foreign country is charging tolls for the use of the bridge.

(b) Upon a finding by the Secretary that such action will promote the development of an integrated Interstate System, the Secretary is authorized to approve as part of the Interstate System any toll road, bridge or tunnel, now or hereafter constructed which meets the standards adopted for the improvement of projects located on the Interstate System when such toll road, bridge or tunnel is located on a route heretofore or hereafter designated as a part of the Interstate System. No Federal-aid highway funds shall be expended for the construction, reconstruction or improvement of any such toll road, except to the extent permitted by law after June 29, 1956. When any such toll road which the Secretary has approved as a part of the Interstate System is made a toll-free facility, Federal-aid highway funds apportioned under section 104(b)(5) of this title may be expended for the construction, reconstruction, or improvement of that road to meet the standards adopted for the improvement of projects located on the Interstate System. No Federal-aid highway funds shall be expended for the construction, reconstruction or improvement of any such toll bridge or tunnel, except to

the extent permitted by law on or after June 29, 1956. After June 30, 1968, all agreements between the Secretary and a State highway department for the construction of projects on the Interstate System shall contain a clause providing that no toll road will be constructed after June 30, 1968, on the interstate highway route involved without the official concurrence of the Secretary. The Secretary shall not concur in any such construction unless he makes an affirmative finding that, under the particular circumstances existing, the construction of such road as a toll facility rather than a toll-free facility is in the public interest. The preceding two sentences shall not apply to any toll bridge or toll tunnel.

(c) Funds authorized for expenditure on any of the Federal-aid highway systems, including the Interstate System, shall be available for expenditure on projects approaching any toll road, bridge or tunnel to a point where such project will have some use irrespective of its use for such toll road, bridge or tunnel.

(d) Funds authorized for the Interstate System shall be available for expenditure on Interstate System projects approaching any toll road on the Interstate System, although the project has no use other than an approach to such toll road, if an agreement satisfactory to the Secretary has been reached with the State prior to the approval of such project—

(1) that the section of toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against such section of toll road covered in the agreement and their maintenance and operation and debt service during the period of toll collections, and

(2) that there is one or more reasonably satisfactory alternate free routes available to traffic by which the toll section of the system may be bypassed.

(e) Notwithstanding the provisions of subsection (b) of this section, the Secretary may permit Federal participation in the reconstruction and improvement of any toll road providing for only two lanes of traffic, which is designated part of the Interstate System as he may find necessary to bring such two lane toll road to the geometric and construction standards for the Interstate System in order to provide for the safe use of such highway as part of the Interstate System and to facilitate the removal of tolls therefrom. Federal participation in such reconstruction and improvement shall be on the same basis and in the same manner as in the construction of free Interstate System highways under this chapter. No Federal participation shall be permitted pursuant to this subsection except on two lane toll roads which were designated as a part of the Interstate System on or before June 30, 1973. Before Federal participation under this subsection, the State highway department and the toll road authority involved shall enter into an agreement with the Secretary which shall provide that—

(1) no indebtedness which is to be liquidated by the collection of tolls (in addition to indebtedness in existence on date of enactment in this subsection) shall be incurred after the date of enactment of this subsection;

(2) all tolls received from the operation of the toll road, less the actual cost of such operation and maintenance, shall be ap-

plied to the repayment of only those bonds outstanding on the date of enactment of this subsection constituting a valid lien against such toll road and its maintenance and operation and debt service during the period of toll collection;

(3) the toll road shall become free to the public upon collection of tolls sufficient to liquidate all such bonds.

(f) Notwithstanding the provisions of section 301 of this title, the Secretary may permit Federal participation under this title in the construction of a project constituting an approach to a ferry, whether toll or free, the route of which has been approved under section 103(b) or (c) of this title as a part of one of the Federal-aid systems and has not been designated as a route on the Interstate System. Such ferry may be either publicly or privately owned and operated, but the operating authority and the amount of fares charged for passage shall be under the control of a State agency or official, and all revenues derived from publicly owned or operated ferries shall be applied to payment of the cost of construction or acquisition thereof, including debt service, and to actual and necessary costs of operation, maintenance, repair, and replacement.

(g) Notwithstanding section 301 of this title, the Secretary may permit Federal participation under this title in the construction of ferry boats, whether toll or free, subject to the following conditions:

(1) It is not feasible to build a bridge, tunnel, combination thereof, or other normal highway structure in lieu of the use of such ferry.

(2) The operation of the ferry shall be on a route which has been approved under section 103(b) or (c) of this title as a part of one of the Federal-aid systems within the State and has not been designated as a route on the Interstate System.

(3) Such ferry shall be publicly owned and operated.

(4) The operating authority and the amount of fares charged for passage on such ferry shall be under the control of the State, and all revenues derived therefrom shall be applied to actual and necessary costs of operation, maintenance, and repair.

(5) Such ferry may be operated only within the State (including the islands which comprise the State of Hawaii and the islands which comprise the Commonwealth of Puerto Rico) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii and operations between the islands which comprise the Commonwealth of Puerto Rico and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada, no part of such ferry operations shall be in any foreign or international waters.

(6) No such ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from such a disposition shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to such State. Any amounts so credited shall be in addition to all other funds then apportioned to such State and available for expenditure in accordance with the provisions of this title.

(h) Notwithstanding the provisions of section 301 of this title, in the case of each State which, before January 1, 1975, shall have constructed or acquired any interstate toll bridge (including approaches thereto), which before January 1, 1975, caused such toll bridge to be made free, which bridge is owned and maintained by such State or by a political subdivision thereof, and which bridge is on the Federal-aid primary system (other than the Interstate System), sums apportioned to such State in accordance with paragraphs (1) and (3) of subsection (b) of section 104 of this title shall be available to pay the Federal share of a project under this subsection of (1) such amount as the Secretary determines to be the reasonable value of such bridge after deducting therefrom that portion of such value attributable to any grant or contribution previously paid by the United States in connection with the construction or acquisition of such bridge, and exclusive of rights-of-way, or (2) the amount by which the principal amount of the outstanding unpaid bonds or other obligations created and issued for the construction or acquisition of such bridge exceeds the amount of any funds accumulated or provided for their amortization, on the date such bridge is made free, whichever is the lesser amount.

(i) Notwithstanding section 301 of this title, the Secretary may permit Federal participation, through funds for any Federal-aid system other than the Interstate System, in any engineering and fiscal assessments, traffic analyses, network studies, preliminary modification planning, and any other study necessary to determine whether a privately owned toll bridge should be acquired by a State or political subdivision thereof.

§ 130. Railway-highway crossings

(a) Except as provided in subsection (d) of section 120 of this title and subsection (b) of this section, the entire cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings, may be paid from sums apportioned in accordance with section 104 of this title. In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of such relocation project, except as provided in subsection (d) of section 120 of this title and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

(b) The Secretary may classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage so determined shall in no case exceed 10 per centum. The Secretary shall determine the appropriate classification of each project.

(c) Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from

sums made available for expenditure under this title, or prior Acts, shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made pursuant to subsection (b) of this section. Such liability to the United States may be discharged by direct payment to the State highway department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. Such payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of such project. If any such railroad fails to discharge such liability within a six-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

§ 131. Control of outdoor advertising

(a) The Congress hereby finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section be limited to (1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, (3) signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located, (4) signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance the preservation of which would be consistent with the purposes of this section, and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term "free coffee" shall include coffee for which a donation may be made, but is not required.

(d) In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act. Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreements in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

(e) Any sign, display, or device lawfully in existence along the Interstate System or the Federal-aid primary system on September 1, 1965, which does not conform to this section shall not be re-

quired to be removed until July 1, 1970. Any other sign, display, or device lawfully erected which does not conform to this section shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

(f) The Secretary shall, in consultations with the States, provide within the rights-of-way for areas at appropriate distances from interchanges on the Interstate System, on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. Such signs shall conform to national standards to be promulgated by the Secretary.

(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section. The Federal share of such compensation shall be 75 per centum. Such compensation shall be paid for the following:

(A) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

(B) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(h) All public lands or reservations of the United States which are adjacent to any portion of the Interstate System and the primary system shall be controlled in accordance with the provisions of this section and the national standards promulgated by the Secretary.

(i) In order to provide information in the specific interest of the traveling public, the State highway departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system.

(j) Any State highway department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement, but no such State highway department shall be entitled to such payments unless the State maintains the control required under such agreement: *Provided,* That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote

control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder. Such payments shall be paid only from appropriations made to carry out this section. The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section.

(k) Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

(l) Not less than sixty days before making a final determination to withhold funds from a State under subsection (b) of this section, or to do so under subsection (b) of section 136, or with respect to failing to agree as to the size, lighting, and spacing of signs, displays, and devices or as to unzoned commercial or industrial areas in which signs, displays, and devices may be erected and maintained under subsection (d) of this section, or with respect to failure to approve under subsection (g) of section 136, the Secretary shall give written notice to the State of his proposed determination and a statement of the reasons therefor, and during such period shall, give the State an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth his final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the State may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United States. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section or subsection (b) of section 136, the amount so withheld shall not be reapportioned to the other States as long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.

(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $2,000,000 for the fiscal year ending June 30, 1970, not to exceed $27,000,000 for the fiscal year ending June 30, 1971, not to exceed $20,500,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal

year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.

(n) No sign, display, or device shall be required to be removed under this section if the Federal share of the just compensation to be paid upon removal of such sign, display, or device is not available to make such payment.

(o) The Secretary may approve the request of a State to permit retention in specific areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in such defined area.

(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Federal-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 per centum of the just compensation for such removal (including all relocation costs).

(q)(1) During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards for directional signs authorized under subsections 131(c)(1) and 131(f) to develop signs which are functional and esthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes.

(2) Among other things the Secretary shall encourage States to adopt programs to assure that removal of signs providing necessary directional information, which also were providing directional information on June 1, 1972, about facilities in the interest of the traveling public, be deferred until all other nonconforming signs are removed.

§ 132. Payments on Federal-aid projects undertaken by a Federal agency

Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency and the State makes a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertak-

en or to be undertaken by such Federal agency, the Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations the estimated Federal share under the provisions of this title of the State's obligation so deposited or paid by such State. Upon completion of such project and its acceptance by the Secretary, an adjustment shall be made in such Federal share payable on account of such project based on the final cost thereof. Any sums reimbursed to the State under this section which may be in excess of the Federal pro rata share under the provisions of this title of the State's share of the cost as set forth in the approved final voucher submitted by the State shall be recovered and credited to the same class of funds from which the Federal payment under this section was made.

§ 133. [Repealed P.L. 90-495]

§ 134. Transportation planning in certain urban areas

(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives, and with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing comprehensive transportation planning process carried on cooperatively by States and local communities in conformance with the objectives stated in this section. No highway project may be constructed in any urban area of fifty thousand population or more unless the responsible public officials of such urban area in which the project is located have been consulted and their views considered with respect to the corridor, the location, and design of the project.

(b)(1) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such

urbanized area or areas, and in cooperation with the Governor, redesignate as the metropolitan planning organization any representative organization.

(2) Except as provided in paragraph (1), after the date of enactment of this subsection designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.

(c) The Secretary may define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary may by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary may, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and may provide assistance including financial assistance to such bodies. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated not to exceed $500,000 to carry out this subsection.

§ 135. Traffic operations improvement programs

(a) The Congress hereby finds and declares it to be in the national interest that each State shall have a continuing program designed to reduce traffic congestion and facilitate the flow of traffic.

(b) The Secretary may approve under this section any project for improvements on any public road which project will directly facilitate and control traffic flow on any of the Federal-aid systems.

§ 136. Control of junkyards

(a) The Congress hereby finds and declares that the establishment and use and maintenance of junkyards in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the establishment and maintenance along the Interstate System and the primary system of outdoor junkyards, which are within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10 per centum of

the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that by January 1, 1968, such junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the system, or shall be removed from sight.

(d) The term "junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(e) The term "automobile graveyard" shall mean any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(f) The term "junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(g) Notwithstanding any provision of this section, junkyards, auto graveyards, and scrap metal processing facilities may be operated within areas adjacent to the Interstate System and the primary system which are within one thousand feet of the nearest edge of the right-of-way and which are zoned industrial under authority of State law, or which are not zoned under authority of State law, but are used for industrial activities, as determined by the several States subject to approval by the Secretary.

(h) Notwithstanding any provision of this section, any junkyard in existence on the date of enactment of this section which does not conform to the requirements of this section and which the Secretary finds as a practical matter cannot be screened, shall not be required to be removed until July 1, 1970.

(i) The Federal share of landscaping and screening costs under this section shall be 75 per centum.

(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully established under State law. The Federal share of such compensation shall be 75 per centum.

(k) All public lands or reservations of the United States which are adjacent to any portion of the interstate and primary systems shall be effectively controlled in accordance with the provisions of this section.

(l) Nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to outdoor junkyards on the Federal-aid highway systems than those established under this section.

(m) There is authorized to be appropriated to carry out this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for fiscal year ending June 30, 1966, not

to exceed $20,000,000 for fiscal year ending June 30, 1967, not to exceed $3,000,000 for fiscal year ending June 30, 1970, not to exceed $3,000,000 for fiscal year ending June 30, 1971, not to exceed $3,000,000 for fiscal year ending June 30, 1972, and not to exceed $5,000,000 for fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.

§ 137. Fringe and corridor parking facilities

(a) The Secretary may approve as a project on the Federal-aid urban system the acquisition of land adjacent to the right-of-way outside a central business district, as defined by the Secretary, and the construction of publicly owned parking facilities thereon or within such right-of-way, including the use of the air space above and below the established grade line of the highway pavement, to serve an urban area of fifty thousand population or more. Such parking facility shall be located and designed in conjunction with existing or planned public transportation facilities. In the event fees are charged for the use of any such facility, the rate thereof shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility).

(b) The Secretary shall not approve any project under this section until—

(1) he has determined that the State, or the political subdivision thereof, where such project is to be located, or any agency, or instrumentality of such State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility;

(2) he has entered into an agreement governing the financing, maintenance, and operation of the parking facility with such State, political subdivision, agency or instrumentality, including necessary requirements to insure that adequate public transportation services will be available to persons using such facility; and

(3) he has approved design standards for constructing such facility developed in cooperation with the State highway department.

(c) The term "parking facilities" for purposes of this section shall include access roads, buildings, structures, equipment, improvements, and interests in lands.

(d) Nothing in this section, or in any rule or regulation issued under this section, or in any agreement required by this section, shall prohibit (1) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility constructed under this section, or (2) any such person from so operating such facility.

(e) The Secretary shall not approve any project under this section unless he determines that it is based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title.

(f)(1) The Secretary may approve for Federal financial assistance from funds apportioned under section 104(b)(5)(B) of this title, projects for designating existing facilities, or for acquisition of rights of way or construction of new facilities, for use as perferential parking for carpools, provided that such facilities (A) are located outside of a central business district and within an interstate highway corridor, and (B) have as their primary purpose the reduction of vehicular traffic on the interstate highway.

(2) Nothing in this subsection, or in any rule or regulation issued under this subsection, or in any agreement required by this subsection, shall prohibit (A) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility designated or constructed under this subsection, or (B) any such person from so operating such facility. Any fees charged for the use of any such facility in connection with the purpose of this subsection shall not be in excess of the amount required for operation and maintenance, including compensation to any person for operating the facility.

(3) For the purposes of this subsection, the terms "facilities" and "parking facilities" are synonymous and shall have the same meaning given "parking facilities" in subsection (c) of this section.

§ 138. Preservation of parklands

It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use. In carrying out the national policy declared in this section the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, is authorized to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.

§ 139. Additions to Interstate System

(a) Whenever the Secretary determines that a highway on the Federal-aid primary system meets all of the standards of a highway on the Interstate System and that such highway is a logical addi-

tion or connection to the Interstate System, he may, upon the affirmative recommendation of the State or States involved, designate such highway as a part of the Interstate System. The mileage of any highway designated as part of the Interstate System under this section shall not be charged against the limitation established by the first sentence of section 103(e) of this title. The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway; except that any State may use funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any highway designated as a route on the Interstate System under this subsection before the date of enactment of this sentence.

(b) Whenever the Secretary determines that a highway on the Federal-aid primary system would be a logical addition or connection to the Interstate System and would qualify for designation as a route on that system in the same manner as set forth in paragraph 1 of subsection (e) of section 103 of this title, he may upon the affirmative recommendation of the State or States involved designate such highway as a future part of the Interstate System. Such designation shall be made only upon the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the Secretary and the State or States involved. The mileage of any highway designated as a future part of the Interstate System under this subsection shall not be charged against the limitations established by the first sentence of section 103(e) of this title. The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway; except that any State may use funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any highway designated as a route on the Interstate System under this subsection before the date of enactment of this sentence. In the event that the State or States involved have not substantially completed the construction of any highway designated under this subsection within the time provided for in the agreement between the Secretary and State or States involved, the Secretary shall remove the designation of such highway as a future part of the Interstate System. Removal of such designation as result of failure to comply with the agreement provided for in this subsection shall in no way prohibit the Secretary from designating such route as part of the Interstate System pursuant to subsection (a) of this section or under any other provision of law providing for addition to the Interstate System. No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision thereof, shall refer to any highway under this section, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as such highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a part of the Interstate System.

(c) The Secretary shall designate those portions of highway segments on the Federal-aid primary system in States which have no

Interstate System that are logical components to a system serving the State's principal cities, national defense needs and military installations, and traffic generated by rail, water, and air transportation modes. The designated segments shall have been constructed to the geometric and construction standards adequate for current and probable future traffic demands and the needs of the locality of the segment. The mileage of any highway designated as part of the Interstate System under this subsection shall not be charged against the limitation established by the first sentence of section 103(e)(1) of this title. The designation of a highway under this subsection shall create no Federal financial responsibility with respect to such highway, except that the State involved may use Federal-aid highway funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title, for the resurfacing, rehabilitation, restoration, and reconstruction of a highway designated as a route on the Interstate System under this subsection.

§ 140. Nondiscrimination

(a) Prior to approving any programs for projects as provided for in subsection (a) of section 105 of this title, the Secretary shall require assurances from any State desiring to avail itself of the benefits of this chapter that employment in connection with proposed projects will be provided without regard to race, color, creed, national origin, or sex. He shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder. In approving programs for projects on any of the Federal-aid systems, the Secretary shall, where he considers it necessary to assure equal employment opportunity, require certification by any State desiring to avail itself of the benefits of this chapter that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading programs, registered with the Department of Labor or the appropriate State agency, if any, which provide equal opportunity for training and employment without regard to race, color, creed, national origin, or sex. The Secretary shall periodically obtain from the Secretary of Labor and the respective State highway departments information which will enable him to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as he shall deem necessary to carry out the equal employment opportunity program required hereunder.

(b) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer highway construction training, including skill improvement programs. Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and not to exceed $10,000,000 per fiscal year, for the administration of this subsection. Such sums so deducted shall remain available until expended. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall

not be applicable to contracts and agreements made under the authority herein granted to the Secretary.

(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. Whenever apportionments are made under subsection 104(a) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary notwithstanding the provisions of section 302(e) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(e)).

§ 141. Enforcement of requirements

(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.

(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title.

(c)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.

(d) The Secretary shall reduce the State's apportionment of Federal-aid highway funds under section 104(b)(5) of this title in an amount up to 25 per centum of the amount to be apportioned in

any fiscal year beginning after September 30, 1984, during which heavy vehicles, subject to the use tax imposed by section 4481 of the Internal Revenue Code of 1954, may be lawfully registered in the State without having presented proof of payment, in such form as may be prescribed by the Secretary of the Treasury, of the use tax imposed by section 4481 of such Code. Amounts withheld from apportionment to a State under this subsection shall be apportioned to the other States pursuant to the formulas of section 104(b)(5) of this title and shall be available in the same manner and to the same extent as other Interstate funds apportioned at the same time to other States.

§ 142. Public transportation

(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating motor vehicles (other than on rail) on Federal-aid highways for the transportation of passengers (hereafter in this section referred to as "buses"), so as to increase the traffic capacity of the Federal-aid systems for the movement of persons, the Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential high occupancy vehicle lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities to serve high occupancy vehicle and public mass transportation passengers, and sums apportioned under section 104(b) of this title shall be available to finance the cost of projects under this paragraph. If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility and the cost of providing shuttle service to and from the facility (including compensation to any person for operating the facility and for providing such shuttle service).

(2) In addition to the projects under paragraph (1), the Secretary may, beginning with the fiscal year ending June 30, 1975, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section 104(b)(6) of this title, the purchase of buses, and, beginning with the fiscal year ending June 30, 1976, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section 104(b)(6) of this title, the construction, reconstruction, and improvement of fixed rail facilities, including the purchase of rolling stock for fixed rail, except that not more than $200,000,000 of all sums apportioned for the fiscal year ending June 30, 1975, under section 104(b)(6) shall be available for the payment of the Federal share of projects for the purchase of buses.

(b) Sums apportioned in accordance with paragraph (5) of subsection (b) of section 104 of this title shall be available to finance the Federal share of projects for exclusive or preferential high occupancy vehicle, truck, and emergency vehicle routes or lanes. Routes constructed under this subsection shall not be subject to the third sentence of section 109(b) of this title.

(c) Whenever responsible local officials of an urbanized area notify the State highway department that, in lieu of a highway project the Federal share of which is to be paid from funds appor-

tioned under section 104(b)(6) of this title for the fiscal years ending June 30, 1974, and June 30, 1975, their needs require a nonhighway public mass transit project involving the construction of fixed rail facilities, or the purchase of passenger equipment including rolling stock for any mode of mass transit, or both, and the State highway department determines that such public mass transit project is in accordance with the planning process under section 134 of this title and is entitled to priority under such planning process, such public mass transit project shall be submitted for approval to the Secretary. Approval of the plans, specifications, and estimates for such project by the Secretary shall be deemed a contractual obligation of the United States for payment out of the general funds of its proportional share of the cost of such project in an amount equal to the Federal share which would have been paid if such project were a highway project under section 120(a) of this title. Funds previously apportioned to such State under section 104(b)(6) of this title shall be reduced by an amount equal to such Federal share.

(d) The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title.

(e)(1) For all purposes of this title, a project authorized by subsection (a)(1) of this section shall be deemed to be a highway project.

(2) Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects shall be subject to, and governed in accordance with, all provisions of this title applicable to projects on the Federal-aid urban system, except to the extent determined inconsistent by the Secretary.

(3) The Federal share payable on account of projects authorized by subsection (a) of this section shall be that provided in section 120 of this title.

(f) No project authorized by this section shall be approved unless the Secretary of Transportation has received assurances satisfactory to him from the State that high occupancy vehicles will fully utilize the proposed project.

(g) In any case where sufficient land exists within the publicly acquired rights-of-way of any Federal-aid highway to accommodate needed rail or nonhighway public mass transit facilities and where this can be accomplished without impairing automotive safety or future highway improvements, the Administrator may authorize a State to make such lands and rights-of-way available without charge to a publicly owned mass transit authority for such purposes wherever he may deem that the public interest will be served thereby.

(h) The provision of assistance under subsection (a)(2) or subsection (c) of this section shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable.

(i) Funds available for expenditure to carry out the purposes of subsection (a)(2) and subsection (c) of this section shall be supple-

mentary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

(j) The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out subsection (a)(2) and subsection (c) of this section.

(k) The Secretary shall not approve any project under subsection (a)(2) of this section in any fiscal year when there has been enacted an Urban Transportation Trust Fund or similar assured funding for both highway and public transportation.

§ 143. Economic growth center development highways

(a) In order to promote the desirable development of the Nation's natural resources, to revitalize and diversify the economy of rural areas and smaller communities, to enhance and disperse industrial growth, to encourage more balanced population patterns, to check, and, where possible, to reverse current migratory trends from rural areas and smaller communities, and to improve living conditions and the quality of the environment, the Secretary is authorized to make grants to States for projects for the construction, reconstruction, and improvement of development highways on a Federal-aid system (other than the Interstate System) to serve and promote the development of economic growth centers and surrounding areas, encourage the location of business and industry in rural areas, facilitate the mobility of labor in sparsely populated areas, and provide rural citizens with improved highways to such public and private services as health care, recreation, employment, education, and cultural activities, or otherwise encourage the social and economic development of rural communities, and for planning, surveys, and investigations in connection therewith.

(b) Each Governor may transmit to the Secretary his recommendations for (1) the selection of economic growth centers within the State, (2) priorities for the construction of development highways on a Federal-aid system (other than the Interstate System) to serve such centers, and (3) such other information as may be required by the Secretary, for his consideration in approving the selection of economic growth centers for projects.

(c) Upon the application of the State highway department of any State in which an economic growth center approved by the Secretary as eligible for a project is located, the Secretary is authorized to pay up to 100 per centum of the cost of engineering and economic surveys or other investigations necessary for the planning and design development highways on a Federal-aid system (other than the Interstate System) needed to provide appropriate access to such growth center, including publicly owned airport facilities and public ports for water transportation which may be established to serve it, in order to carry out the purposes of this section.

(d) Except as otherwise provided in this section, all of the provisions of this title applicable to highways on the Federal-aid system on which such development highway is located except those which the Secretary determines are inconsistent with this section shall apply to development highways and to funds authorized to carry out this section. For the purposes of sections 105, 106, and 118 of this title, funds authorized to carry out this section shall be

deemed to be apportioned on January 1 next preceding the commencement of the fiscal year for which authorized. No State shall receive in any fiscal year more than 15 per centum of the funds authorized to carry out this section for such fiscal year.

(e) Except as otherwise provided in subsection (c) of this section, the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be the same as that provided under this title for any other project on the Federal-aid system on which such development highway is located.

(f)(1) Except in the case of a project subject to paragraph (2) of this subsection, no project shall be approved by the Secretary under this section until he has determined that such project will promote the aims and purposes set forth in subsection (a) of this section and that the economic growth center to be benefited will meet such criteria as he, after consultation with the Secretary of Commerce, deems necessary, including, but not limited to, the following: (1) growth centers shall be geographically and economically capable of contributing significantly to the development of the area, and (2) growth centers shall have a population not in excess of one hundred thousand according to the latest available Federal census. In approving projects the Secretary shall give preference to those areas offering the most potential for future economic growth.

(2) In the case of a project proposed to be conducted within the Appalachian region as defined in section 403 of the Appalachian Regional Development Act of 1965, no project shall be approved by the Secretary under this section until he shall have consulted with the Federal Cochairman of the Appalachian Regional Commission. In the case of a project proposed to be conducted within an economic development region as defined in title V of the Public Works and Economic Development Act of 1965, no project shall be approved by the Secretary under this section until he shall have consulted with the Federal Cochairman for such region and the Secretary of Commerce. In consultation with the appropriate official, the Secretary shall establish criteria for the selection of growth centers eligible for assistance under this section such that the aims and purposes set forth in subsection (a) of this section will be promoted. Such criteria shall include, but not be limited to, the following: (1) growth centers shall be geographically and economically capable of contributing significantly to the development of the area, (2) growth centers shall have a population not in excess of one hundred thousand persons according to the latest available Federal census, and (3) the selection of such growth centers within the Appalachian region and the economic development regions shall take into account the purposes of the Appalachian Regional Development Act of 1965 and the Public Works and Economic Development Act of 1965. In approving projects the Secretary shall give preference to those areas offering the most potential for future economic growth and he shall make arrangements for close coordination throughout the development and implementation of the project with the Federal Cochairman of the Appalachian Regional Commission, or with the appropriate Federal Cochairman of an economic development region, and the Secretary of Commerce, as the case may be.

(g) There is authorized to be appropriated out of the Highway Trust Fund not to exceed $50,000,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973.

§ 144. Highway bridge replacement and rehabilitation program

(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge replacement and rehabilitation program be established to enable the several States to replace or rehabilitate highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary find that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.

(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid system which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement or rehabilitation; and (4) determine the cost of replacing each such bridge with a comparable facility or by rehabilitating such bridge.

(c)(1) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid system, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(2) The Secretary may, at the request of a State, inventory bridges, on and off the Federal-aid system, for historic significance.

(d) Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsection (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participation in replacing such bridge with a comparable facility or in rehabilitating such bridge. The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State. In approving projects under this section, the Secretary shall give consideration to those projects which will remove from service those highway bridges most in danger of failure.

(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized in accordance with this subsection. Each deficient bridge shall be placed into one of the following categories: (1) Federal-aid system bridges eligible for replacement, (2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges eligible for replacement, and (4) off-system bridges eligible for rehabilitation. The square footage of deficient bridges in each category shall be multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary; and the total cost in each

State divided by the total cost of the deficient bridges in all States shall determine the apportionment factors. No State shall receive more than 10 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually.

(f) The Federal share payable on account of any highway bridge replaced or rehabilitated under this section shall be 80 per centum of the cost thereof.

(g)(1) To carry out this section, there is authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 30, 1976, to be available until expended. Of the amount authorized per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 3, 1981, and September 30, 1982, authorized by paragraph (6) of section 202 of the Highway Safety Act of 1978, all but $200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000, and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge.

(2) Of the amount authorized per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, by section 5(a)(1) of the Federal-Aid Highway Act of 1982 and section 202(1) of the Highway Safety Act of 1982, all but $200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000, and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge. Not less than 15 per centum nor more than 35 per centum

of the amount apportioned to each State in each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal-aid system. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on a Federal-aid system when he determines that such State has inadequate needs to justify such expenditure.

(h) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525–533) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of such Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if such bridge is over waters which are not subject to the ebb and flow of the tide, and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

(i) The Secretary shall report annually on projects approved under this section, shall annually revise and report the current inventories authorized by subsections (b) and (c) of this section, and shall report such recommendations as he may have for improvement of the program authorized by this section.

(j) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

(k) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

(l) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for assistance under this section but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project.

(m) As used in this section the term "rehabilitate" in any of its forms means major work necessary to restore the structural integ-

rity of a bridge as well as work necessary to correct a major safety defect.

§ 145. Federal-State relationship

The authorization of the appropriation of Federal funds or their availability for expenditure under this chapter shall in no way infringe on the sovereign rights of the States to determine which projects shall be federally financed. The provisions of this chapter provide for a federally assisted State program.

§ 146. Carpool and vanpool projects

(a) In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary may approve for Federal financial assistance from funds apportioned under sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title, "projects" designed to encourage the use of carpools and vanpools. (As used hereafter in this section, the term "carpool" includes a vanpool.) Such a project may include, but is not limited to, such measures as providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.

§ 147. Priority primary routes

(a) High traffic sections of highways on the Federal-aid primary system which connect to the Interstate System shall be selected by each State highway department, in consultation with appropriate local officials, subject to approval by the Secretary, for priority of improvement to supplement the service provided by the Interstate System by furnishing needed adequate traffic collector and distributor facilities. For the purpose of this section such highways shall hereafter in this section be referred to as "priority primary routes".

(b) The Federal share of any project on a priority primary route shall be that provided in section 120(a) of this title. All provisions of this title applicable to the Federal-aid primary system shall be applicable to the priority primary routes selected under this section.

(c) The initial selection of the priority primary routes and the estimated cost of completing such routes shall be reported to Congress on or before July 1, 1974.

(d) There is authorized to be appropriated out of the Highway Trust Fund to carry out this section not to exceed $100,000,000 for the fiscal year ending June 30, 1974, $200,000,000 for the fiscal year ending June 30, 1975, and $300,000,000 for the fiscal year ending June 30, 1976.

§ 148. Development of a national scenic and recreational highway

(a) As soon as possible after the date of enactment of this section, the Secretary shall establish criteria for the location and construction or reconstruction of the Great River Road by the ten States bordering the Mississippi River. Such criteria shall include requirements that—

(1) priority be given in the location of the Great River Road near or easily accessible to the larger population centers of the State and further priority be given to the construction and improvement of the Great River Road in the proximity of the confluence of the Mississippi River and the Wisconsin River;

(2) the Great River Road be connected with other Federal-aid highways and preferably with the Interstate System;

(3) the Great River Road be marked with uniform identifying signs;

(4) effective control, as defined in section 131 of this title, of signs, displays, and devices will be provided along the Great River Road;

(5) the provisions of section 129(a) of this title shall not apply to any bridge or tunnel on the Great River Road and no fees shall be charged for the use of any facility constructed with assistance under this section, except for parks, recreational areas, and historical sites operated by State or local governments where admission fees may be charged to cover operational costs.

(b) For the purpose of this section, the term "construction" includes the acquisition of areas of historical, archeological, or scientific interest, necessary easements for scenic purposes, and the construction or reconstruction of roadside rest areas (including appropriate recreational facilities), scenic viewing areas, and other appropriate facilities as determined by the Secretary.

(c) Highways constructed or reconstructed pursuant to this section (except subsection (f)) shall be part of the Federal-aid system.

(d) Funds appropriated for each fiscal year pursuant to subsection (g) shall be apportioned among the ten States bordering the Mississippi River on the basis of their relative needs as determined by the Secretary for payments to carry out this section.

(e) The Federal share of the cost of any project for any construction or reconstruction pursuant to the preceding subsections of this section shall be that provided in section 120 of this title for the Federal-aid system on which such project is located, and if such project is not on such a system, such share shall be 75 per centum of such cost.

(f) The Secretary is authorized to consult with the heads of other Federal departments and agencies having jurisdiction over Federal lands open to the public in order to enter appropriate arrangements for necessary construction or reconstruction of highways on such lands to carry out this section. Highways constructed or reconstructed by a State pursuant to this section which are not on a Federal-aid system, and highways constructed or reconstructed under this subsection, shall be subject to the criteria applicable to highways constructed or reconstructed pursuant to subsection (c) of this section. Funds authorized pursuant to subsection (g) shall be

used to pay the entire cost of construction or reconstruction pursuant to the first sentence of this subsection.

(g) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, for construction or reconstruction of roads on a Federal-aid highway system, not to exceed $10,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $25,000,000 for the fiscal year ending June 30, 1976, for allocations to the States pursuant to this section, and there is authorized to be appropriated to carry out this section out of any money in the Treasury not otherwise appropriated, not to exceed $10,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, for construction and reconstruction of roads not on a Federal-aid highway system.

(h) The Secretary is authorized to provide for the construction of such spur highways as he determines necessary to connect the Great River Road, by the most direct feasible routes, with existing bridges across the Mississippi for the purpose of providing persons traveling such road with access to significant scenic, historical, recreational, or archeological features on the opposite side of the Mississippi River from the Great River Road.

§ 149. Truck lanes

The Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential truck lanes.

§ 150. Allocation of urban system funds

The funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title that are attributable to urbanized areas of 200,000 population or more shall be made available for expenditure in such urbanized areas for projects in programs approved under subsection (d) of section 105 of this title in accordance with a fair and equitable formula developed by the State which formula has been approved by the Secretary. Such formula shall provide for fair and equitable treatment of incorporated municipalities of 200,000 or more population. Whenever such a formula has not been developed and approved for a State, the funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title which are attributable to urbanized areas having a population of 200,000 or more shall be allocated among such urbanized areas within such State for projects in programs approved under subsection (d) of section 105 of this title in the ratio that the population within each such urbanized area bears to the population of all such urbanized areas, or parts thereof, within such State. In the expenditure of funds allocated under the preceding sentence, fair and equitable treatment shall be accorded incorporated municipalities of 200,000 or more population. Funds allocated to an urbanized area under the provisions of this section may, at the request of the Governor and upon approval of the appropriate local officials of the area and the Secretary, be transferred to the allocation of another such area in the State or to the State for use in any urban area.

§ 151. Pavement marking demonstration program

(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a pavement marking demonstration program be established to enable the several States to improve the pavement marking of all highways to provide for greater vehicle and pedestrian safety.

(b) Notwithstanding the provisions of the last sentence of subsection (a) of section 105 of this title, the Secretary may approve under this section such pavement marking projects on any highway whether or not on any Federal-aid system, but not included in the Interstate System, as he may find necessary to bring such highway to the pavement marking standards issued or endorsed by the Federal Highway Administrator.

(c) In approving projects under this section, the Secretary shall give priority to those projects which are located in rural areas.

(d) The entire cost of projects approved under subsections (b) and (f) of this section shall be paid from sums authorized to carry out this section.

(e) For the purpose of carrying out the provisions of this section by the Federal Highway Administration, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1974, $25,000,000, and for each of the fiscal years ending June 30, 1975, and June 30, 1976, out of the Highway Trust Fund, the sum of $75,000,000. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under this chapter for the Federal-aid primary system. On October 1 of 1978, 1979, and 1980 the Secretary shall allocate the sums authorized to carry out this section for that fiscal year among the several States in such manner as he deems most appropriate to expedite the completion of pavement marking of all highways. Any amounts allocated to the States remaining unobligated at the end of the fiscal year following the fiscal year for which such amounts are authorized shall immediately be reallocated by the Secretary among the other States.

(f) Funds not required for pavement-marking projects authorized by this section may be released by the Secretary for expenditure for projects to eliminate or reduce the hazards to safety at specific locations or sections of highways which are not located on any Federal-aid system and which have high accident experiences or high accident potentials. Funds may be released by the Secretary under this subsection only if the Secretary has received satisfactory assurances from the State highway department that all nonurban area highways within the State are marked in accordance with the pavement-marking standards issued or endorsed by the Federal Highway Administrator for carrying out this program.

(g) Each State shall report to the Secretary of Transportation not later than September 30, 1974, and not later than December 30 of each year thereafter, on the progress being made in implementing the program and the effectiveness of the improvements made under it. Each report shall include an analysis and evaluation of the number, rate, and severity of accidents at improved locations and the cost-benefit ratio of such improvements, comparing an adequate time period before and after treatment in order to properly

assess the benefits occurring from such pavement markings. No State shall submit any such report to the Secretary for any year after the second year following completion of the pavement marking program in that State.

§ 152. Hazard elimination program

(a) Each State shall conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

(b) The Secretary may approve as a project under this section any highway safety improvement project.

(c) Funds authorized to carry out this section shall be available for expenditure on any public road (other than a highway on the Interstate System).

(d) The Federal share payable on account of any project under this section shall be 90 percent of the cost thereof.

(e) Funds authorized to be appropriated to carry out this section shall be apportioned to the States as provided in section 402(c) of this title. Such funds shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b)(1), except that the Secretary is authorized to waive provisions he deems inconsistent with the purposes of this section.

(f) Each State shall establish an evaluation process approved by the Secretary, to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section. Such evaluation process shall develop cost-benefit data for various types of corrections and treatments which shall be used in setting priorities for highway safety improvement projects.

(g) Each State shall report to the Secretary of Transportation not later than December 30 of each year, on the progress being made to implement highway safety improvement projects for hazard elimination and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to the Congress not later than April 1 of each year on the progress being made by the States in implementing the hazard elimination program (including but not limited to any projects for pavement marking). The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for future implementation of the hazard elimination program.

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(h) For the purposes of this section the term "State" shall have the meaning given it in section 401 of this title.

§ 153. [Repealed by Public Law 95-599]

§ 154. National maximum speed limit

(a) The Secretary of Transportation shall not approve any project under section 106 in any State which has (1) a maximum speed limit on any public highway within its jurisdiction in excess of fifty-five miles per hour, or (2) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. Clause (2) of this subsection shall not apply to any portion of a highway, during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.

(b) As used in this section the term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

(c) Notwithstanding the provisions of section 120 sums apportioned to any State under section 104 shall be available to pay the entire cost of any modification of the signing of the Federal-aid highways for which such sums are apportioned within such State due to a reduction in speed limits to conserve fuel if such change in signing occurs or has occurred after November 1, 1973.

(d) The requirements of this section shall be deemed complied with by administrative action lawfully taken by the Governor or other appropriate State official that complies with this section.

(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour in accordance with criteria to be established by the Secretary, including criteria which takes into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles.

(f) If the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding 55 miles per hour is greater than 50 percent, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 percent of the amount to be apportioned for the following fiscal year, in the case of fiscal years 1982 and 1983, and up to 10 percent, in the case of subsequent fiscal years.

(g) In any case where the Secretary determines, in accordance with criteria established by the Secretary, that a reduction in apportionment required by subsection (f) of this section would result in hardship to a State, the fiscal year apportionment reduced for such State shall be the apportionment for one fiscal year later than the fiscal year to which such reduction would apply under subsection (f) but for such hardship determination.

(h) The Secretary shall promptly apportion to a State any funds which have been withheld pursuant to subsection (f) of this section if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.

(i) [Repealed. Public Law 97–35].

§ 155. Access highways to public recreation areas on certain lakes

(a) The Secretary is authorized to construct or reconstruct access highways to public recreation areas on lakes in order to accommodate present and projected traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for the purpose of this section which shall include the following criteria:

(1) No portion of any access highway constructed or reconstructed under this section shall exceed thirty-five miles in length nor shall any portion of such highway be located more than thirty-five miles from the nearest part of such recreation area.

(2) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials, after consultation with the head of the Federal agency (if any) having jurisdiction over the public recreation area involved.

(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 75 per centum of the cost of construction or reconstruction of such project.

(c) All of the provisions of this title applicable to highways on the Federal-aid system (other than the Interstate System) determined appropriate by the Secretary, except those provisions which the Secretary determines are inconsistent with this section, shall apply to any highway designated under this section, which is not a part of the Federal-aid system when so designated.

(d) For the purpose of this section the term "lake" means any lake, reservoir, pool, or other body of water resulting from the construction of any lock, dam, or similar structure by the Corps of Engineers, Department of the Army, or the Bureau of Reclamation, Department of the Interior, or the Tennessee Valley Authority, and any multipurpose lake resulting from construction assistance of the Soil Conservation Service, Department of Agriculture. This section shall apply to lakes heretofore or hereafter constructed or authorized for construction.

(e) There is authorized to be appropriated not to exceed $25,000,000 for the fiscal year 1976 to carry out this section. Amounts authorized by this subsection for a fiscal year shall be available for that fiscal year and for the two succeeding fiscal years.

§ 156. Highways crossing Federal projects

(a) The Secretary is authorized to construct and to reconstruct any public highway or highway bridge across any Federal public works project, notwithstanding any other provision of law, where there has been a substantial change in the requirements and costs of such highway or bridge since the public works project was authorized, and where such increased costs would work an undue hardship upon any one State. No such highway or bridge shall be constructed or reconstructed under authority of this section until the State shall agree that upon completion of such construction or reconstruction it will accept ownership to such highway or bridge and will thereafter operate and maintain such highway or bridge.

(b) There is hereby authorized to be appropriated not to exceed $100,000,000 to carry out this section. Amounts authorized by this subsection shall be available for the fiscal year in which appropriated and for two succeeding fiscal years.

§ 157. Minimum allocation

(a) In the fiscal year ending September 30, 1983, as soon as practicable after the date of enactment of this Act, and in each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, on October 1, the Secretary of Transportation shall allocate among the States, as defined in section 101 of this title amounts sufficient to insure that a State's percentage of the total apportionments in each such fiscal year of Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings funds under sections 103(e)(4), 104(b), 144, and 152 of this title and section 203 of the Highway Safety Act of 1973, as amended, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data is available.

(b) Amounts allocated pursuant to subsection (a) of this section shall be available for obligation when allocated for the year authorized plus the three succeeding fiscal years, shall be subject to the provisions of this title 23 and may be obligated for Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings projects. Obligation limitations for Federal-aid highways and highway safety construction programs established by this Act or any subsequent Act shall not apply to obligations made under this section, except where the provision of law establishing such limitation specifically amends or limits the applicability of this sentence. Sums allocated pursuant to this section shall not be considered to be sums allocated for purposes of section 104(b) of the Highway Improvement Act of 1982.

(c) In order to carry out this section there is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, such sums as may be necessary for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

§ 158. National minimum drinking age

(a)(1) The Secretary shall withhold 5 per centum of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of the fiscal year succeeding the fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

(2) The Secretary shall withhold 10 per centum of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of the fiscal year succeeding the fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

(b) The Secretary shall promptly apportion to a State any funds which have been withheld from apportionment under subsection (a) of this section in fiscal year if in any succeeding fiscal year such State makes unlawful the purchase or public possession of any alcoholic beverage by a person who is less than twenty-one years of age.

(c) As used in this section, the term "alcoholic beverage" means—

(1) beer as defined in section 5052(a) of the Internal Revenue Code of 1954,

(2) wine of not less than one-half of 1 per centum of alcohol by volume, or

(3) distilled spirits as defined in section 5002(a)(8) of such Code.

Chapter 2.—OTHER HIGHWAYS

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§ 201. Authorizations

The provision of this title shall apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations heretofore made, providing for the expenditure of Fed-

eral funds on the following classes of highways: Forest highways, forest development roads and trails, park road, parkways, Indian reservation roads, public lands highways, and defense access roads. All such authorizations and appropriations shall continue in full force and effect, but hereafter obligations entered into and expenditures made pursuant thereto shall be subject to the provisions of this title.

§ 202. Allocations

(a) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways according to the relative needs of the various elements of the national forest system as determined by the Secretary, taking into consideration the need for access as identified by the Secretary of Agriculture through renewable resource and land use planning, and the impact of such planning on existing transportation facilities.

(b) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest development roads and trails according to the relative needs of the various national forests. Such allocation shall be consistent with the renewable resource and land use planning for the various national forests.

(c) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations, on the basis of need in such States, respectively, as determined by the Secretary upon application of the State highway departments of the respective States. The Secretary shall give preference to those projects which are significantly impacted by Federal land and resource management activities.

(d) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for park roads and parkways each according to the relative needs of the various elements of the national park system, taking into consideration the need for access as identified through land use planning and the impact of such planning on existing transportation facilities.

(e) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for Indian reservation roads according to the relative needs of the various reservations as jointly identified by the Secretary and the Secretary of the Interior.

§ 203. Availability of funds

Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park road, parkways, Indian reservation roads, and public lands highways shall be available for contract upon apportionment, or on October 1, of the fiscal year for which authorized if no apportionment is required. Any amount remaining unexpended for a period of three years after the close of the fiscal year for which authorized shall lapse. The Secretary of the Department charged with the adminis-

tration of such funds is granted authority to incur obligations, approve projects, and enter into contracts under such authorizations and his action in doing so shall be deemed a contractual obligation of the United States for the payment of the cost thereof and such funds shall be deemed to have been expended when so obligated. Any funds heretofore or hereafter authorized for any fiscal year for forest highways, forest development roads and trails, public lands development roads and trails, park road, parkways, Indian roads and public lands highways shall be deemed to have been expended if a sum equal to the total of the sums authorized for such fiscal year and previous fiscal years since and including the fiscal year ending June 30, 1955, shall have been obligated. Any of such funds released by payment of final voucher or modification of project authorizations shall be credited to the balance of unobligated authorizations and be immediately available for expenditure.

§ 204. Federal Lands Highways Program

(a) Recognizing the need for all Federal roads which are public roads to be treated under the same uniform policies as roads which are on the Federal-aid systems, there is established a coordinated Federal lands highways program which shall consist of the forest highways, public lands highways, park roads, parkways, and Indian reservation roads as defined in section 101 of this title.

(b) Funds available for forest highways and public lands highways shall be used by the Secretary to pay for the cost of construction and improvement thereof. Funds available for park roads, parkways, and Indian reservation roads shall be used by the Secretary of the Interior to pay for the cost of construction and improvement thereof. In connection therewith, the Secretary and the Secretary of the Interior, as appropriate, may enter into construction contracts and such other contracts with a State or civil subdivision thereof or Indian tribe as deemed advisable. In the case of Indian reservation roads, Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior. No ceiling on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

(c) Before approving as a project on an Indian reservation road any project on a Federal-aid system in a State, the Secretary must determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads, of a fair and equitable share of funds apportioned to such State under section 104 of this title.

(d) Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contributed.

(e) Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the Interior shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Notwithstanding the foregoing, the provisions of section 23 of the "Buy Indian" Act of June 25, 1910 (36 Stat. 891), and the

provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior which are appropriated for the construction and improvement of Indian reservation roads.

(f) All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

(g) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

(h) Funds available for each class of Federal lands highways shall be available for adjacent vehicular parking areas and scenic easements.

§ 205. Forest development roads and trails

(a) Funds available for forest development roads and trails shall be used by the Secretary of Agriculture to pay for the costs of construction and maintenance thereof, including roads and trails on experimental and other areas under Forest Service administration. In connection therewith, the Secretary of Agriculture may enter into contracts with a State or civil subdivision thereof, and issue such regulations as he deems advisable.

(b) Cooperation of States, counties, or other local subdivisions may be accepted but shall not be required by the Secretary of Agriculture.

(c) Construction estimated to cost $15,000 or more per mile or $15,000 or more per project for projects with a length of less than one mile, exclusive of bridges and engineering, shall be advertised and let to contract. If such estimated cost is less than $15,000 per mile or $15,000 per project for projects with a length of less than one mile or if, after proper advertising, no acceptable bid is received or the bids are deemed excessive, the work may be done by the Secretary of Agriculture on his own account.

(d) Funds available for forest development roads and trails shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

[§§ 206–209 repealed.]

§ 210. Defense access roads

(a) The Secretary is authorized, out of the funds appropriated for defense access roads, to provide for the construction and maintenance of defense access roads (including bridges, tubes, and tunnels thereon) to military reservations, to defense industries and defense industry sites, and to the sources of raw material when such roads are certified to the Secretary as important to the national defense by the Secretary of Defense or such other official as the President may designate, and for replacing existing highways and highway connections that are shut off from the general public use by neces-

sary closures or restrictions at military reservations and defense industry sites.

(b) Funds appropriated for the purposes of this section shall be available, without regard to apportionment among the several States, for paying all or any part of the cost of the construction and maintenance of defense access roads.

(c) Funds appropriated for defense maneuvers and exercises, may be used by the Secretary in areas certified to him by the Secretary of Defense as maneuver areas for such construction, maintenance, and repair work as may be necessary to keep the highways therein, which have been or may be used for training of the Armed Forces, in suitable condition for such training purposes and for repairing the damage caused to such highways by the operations of men and equipment in such training.

(d) Whenever any project for the construction of a circumferential highway around a city or of a radial intracity route thereto submitted by any State is certified by the Secretary of Defense, or such other official as the President may designate, as being important for civilian or military defense, such project may be constructed out of the funds heretofore or hereafter authorized to be appropriated for defense access roads.

(e) If the Secretary shall determine that the State highway department of any State is unable to obtain possession and the right to enter upon and use the required rights-of-way, lands, or interest in lands, improved or unimproved, required for any project authorized by this section with sufficient promptness, the Secretary is authorized to acquire, enter upon, take possession thereof, and expend funds for projects thereon, prior to approval of title by the Attorney General, in the name of the United States, such rights-of-way, lands or interest in lands as may be required in such State for such projects by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including the Act of February 26, 1931; 46 Stat. 1421). The cost incurred by the Secretary in acquiring any such rights-of-way, lands, or interest in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition; and shall be payable out of funds available for paying the cost or the Federal share of the cost of the project for which such rights-of-way, lands, or interests in lands are acquired. The Secretary is further authorized and directed by proper deed executed in the name of the United States to convey any lands or interests in lands acquired in any State under the provisions of prior Acts or of this section to the State highway department of such State or to such political subdivision thereof as its laws may provide, upon such terms and conditions as may be agreed upon by the Secretary and the State highway department, or political subdivisions to which the conveyance is to be made.

(f) The provisions of section 112 of this title are applicable to defense access roads.

(g) If the Secretary shall determine that it is necessary for the expeditious completion of any defense access road project he may advance to any State out of funds appropriated for defense access roads transferred and available to the Department of Commerce the Federal share of the cost of construction thereof to enable the

State highway department to make prompt payments for acquisition of rights-of-way, and for the construction as it progresses. The sums so advanced shall be deposited in a special fund by the State official authorized by the State law to receive such funds, to be disbursed solely upon vouchers approved by the State highway department for rights-of-way which have been or are being acquired and for construction which has been actually performed under this section. Upon determination by the Secretary that funds advanced to any State under provisions of this subsection are no longer required, the amount of the advance which is determined to be in excess of requirements for the project shall be repaid upon his demand, and such repayments shall be returned to the credit of the appropriation from which the funds were advanced.

(h) Funds appropriated for the purposes of this section shall be available to pay the cost of repairing damage caused to highways by the operation of vehicles and equipment in the construction of classified military installations and facilities for ballistic missiles if the Secretary shall determine that the State highway department of any State is, or has been, unable to prevent such damage by restrictions upon the use of such highways without interference with, or delay in, the completion of a contract for the construction of such military reservations or installations. This subsection shall apply notwithstanding any provision of contract holding a party thereto responsible for such damage, if the Secretary of Defense or his designee shall determine, in fact, that construction estimates and the bid of such party did not include allowance for repairing such damage. This subsection shall apply to damage caused by construction work commenced prior to June 1, 1961, and still in progress on that date and construction work which is commenced or for which a contract is awarded on or after June 1, 1961.

§ 211. Timber access road hearings

With respect to any proposed construction of a timber access road from funds authorized for carrying out the provisions of sections 204, 205, and 210 of this title, advisory public hearings may be held at a place of [1] convenient or adjacent to the area of construction with notice and reasonable opportunity for interested persons to present their views as to the practicability and feasibility of such construction.

§ 212. Inter-American Highway

(a) Funds appropriated for the Inter-American Highway shall be used to enable the United States to cooperate with the Governments of the American Republics situated in Central America—that is, with the Governments of the Republic of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama—in the survey and construction of the Inter-American Highway within the borders of the aforesaid Republics, respectively. Not to exceed one-third of the appropriation authorized for each fiscal year may be expended without requiring the country or countries in which such funds may be expended to match any part thereof, if the Secretary

[1] So in original.

of State shall find that the cost of constructing said highway in such country or countries will be beyond their reasonable capacity to bear. The remainder of such authorized appropriations shall be available for expenditure only when matched to the extent required by this section by the country in which such expenditure may be made. Expenditures from the funds available on a matching basis shall not be made for the survey and construction of any portion of said highway within the borders of any country named herein unless such country shall provide and make available for expenditure in conjunction therewith a sum equal to at least one-third of the expenditures that may be incurred by that Government and the United States on such portion of the highway. All expenditures by the United States under the provisions of this section for material, equipment, and supplies shall, whenever practicable, be made for products of the United States or of the country in which such survey or construction work is being carried on. Construction work to be performed under contract shall be advertised for a reasonable period by the Minister of Public Works, or other similar official, of the government concerned in each of the participating countries and contracts shall be awarded pursuant to such advertisements with the approval of the Secretary. No part of the appropriations authorized shall be available for obligation or expenditure for work on said highway in any cooperating country unless the government of said country shall have assented to the provisions of this section; shall have furnished satisfactory assurances that it has an organization adequately qualified to administer the functions required of such country under the provisions hereof; and then only as such country may submit requests, from time to time, for the construction of any portion of the highway to standards adequate to meet present and future traffic needs. No part of said appropriations shall be available for obligation or expenditure in any such country until the government of that country shall have entered into an agreement with the United States which shall provide, in part, that said country—

(1) will provide, without participation of funds authorized, all necessary rights-of-way for the construction of said highway, which rights-of-way shall be of a minimum width where practicable of one hundred meters in rural areas and fifty meters in municipalities and shall forever be held inviolate as a part of the highway for public use;

(2) will not impose any highway toll, or permit any such toll to be charged, for use by vehicles or persons of any portion of said highway constructed under the provisions of this section;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of said highway by vehicles or persons from the United States that does not apply equally to vehicles or persons of such country;

(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with the provisions of the Convention for the Regulation of Inter-American Automotive Traffic, which was opened for signature at the Pan American Union in Washington on December 15, 1943, and to which such country and the United States are parties, or of

any other treaty or international convention establishing similar reciprocal recognition; and

(5) will provide for the maintenance of said highway after its completion in condition adequately to serve the needs of present and future traffic.

(b) The survey and construction work authorized by this section shall be under the administration of the Secretary, who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Government, and such negotiations with the Governments of the American Republics named in subsection (a) of this section as may be required to carry out the purposes of this section shall be conducted through, or as authorized by, the Department of State.

(c) The provisions of this section shall not create nor authorize the creation of any obligations on the part of the Government of the United States with respect to any expenditures for highway construction or survey heretofore or hereafter undertaken in any of the countries enumerated in subsection (a) of this section, other than the expenditures authorized by the provisions of this section.

(d) Appropriations made pursuant to any authorizations heretofore or hereafter enacted for the Inter-American Highway shall be considered available for expenditure by the Secretary for necessary administrative and engineering expenses in connection with the Inter-American Highway Program.

§ 213. Rama Road

(a) Recognizing the mutual benefits that will accrue to the Republic of Nicaragua and to the United States from the completion of the road from San Benito to Rama in said Republic of Nicaragua, the construction of which road was begun and partially completed pursuant to an agreement between said Republic and the United States, the Secretary is authorized out of the funds appropriated for such purposes to provide for the construction of such road. Appropriations made for such purposes shall remain available until expended. No expenditure shall be made hereunder for the construction of said road until a request therefor shall have been received by the Secretary of State from the Government of the Republic of Nicaragua nor until an agreement shall have been entered into by said Republic with the Secretary of State which shall provide, in part, that said Republic—

(1) will provide, without participation of funds authorized under this title, or under prior Acts, all necessary right-of-way for the construction of said highway, which right-of-way shall be of a minimum width, where practicable, of one hundred meters in rural areas and fifty meters in municipalities and shall forever be held inviolate as a part of the highway for public use;

(2) will not impose any highway toll, or permit any such toll to be charged for the use of said highway by vehicles or persons;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of said road by vehicles or persons from the United States that does not apply equally to vehicles or persons of such Republic;

(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with the provisions of the Convention for the Regulation of Inter-American Automotive Traffic, which was opened for signature at the Pan American Union in Washington on December 15, 1943, and to which such Republic and the United States are parties; or any other treaty or international convention establishing similar reciprocal recognition; and

(5) will maintain said road after its completion in proper condition adequately to serve the needs of present and future traffic.

(b) The funds appropriated for such purposes shall be available for expenditure in accordance with the terms of this section for the survey and construction of said road from San Benito to Rama in the Republic of Nicaragua without being matched by said Republic, and all expenditures made under the provisions of this section for materials, equipment, and supplies, shall, whenever practicable, be made for products of the United States or of the Republic of Nicaragua.

(c) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary.

§ 214. Public lands development roads and trails

(a) Funds available for public lands development roads and trails shall be used to pay the cost of construction and improvement of such roads and trails.

(b) Funds available for public lands development roads and trails shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

§ 215. Territorial highway program

(a) Recognizing the mutual benefits that will accrue to the Virgin Islands, Guam, and American Samoa, and to the United States from the improvement of highways in such territories of the United States, the Secretary is authorized to assist each such territorial government in a program for the construction and improvement of a system of arterial highways, and necessary interisland connectors designated by the Governor of such territory and approved by the Secretary. Federal financial assistance shall be granted under this subsection to such territories upon the basis of a Federal contribution of 100 per centum of the cost of any project.

(b) In order to establish a long-range highway development program, the Secretary is authorized to provide technical assistance for the establishment of an appropriate agency to administer on a continuing basis highway planning, design, construction and maintenance operations, the development of a system of arterial and collector highways, including necessary interisland connectors, and the establishment of advance acquisition of right-of-way and relocation assistance programs.

(c) No part of the appropriations authorized under this section shall be available for obligation or expenditure with respect to any territory until the Governor enters into an agreement with the Secretary providing that the government of such territory (1) will design and construct a system of arterial and collector highways,

including necessary interisland connectors, built in accordance with standards approved by the Secretary; (2) will not impose any toll, or permit any such toll to be charged, for use by vehicles or persons of any portion of the facilities constructed or operated under the provisions of this section; (3) will provide for the maintenance of such facilities in a condition to adequately serve the needs of present and future traffic; (4) will implement standards for traffic operations and uniform traffic control devices which are approved by the Secretary.

(d)(1) Three per centum of the sums authorized to be appropriated for each fiscal year for carrying out subsection (a) of this section shall be available for expenditure only for engineering and economic surveys and investigations, for the planning of future highway programs and the financing thereof, for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof, and for research and development, necessary in connection with the planning, design, and maintenance of the highway system, and the regulation and taxation of their use.

(2) In addition to the percentage provided in paragraph (1) of the subsection, not to exceed 2 per centum of sums authorized to be appropriated for each fiscal year for carrying out subsection (a) of this section may be expended upon request of the Governor and with the approval of the Secretary for the purposes enumerated in paragraph (1) of this subsection.

(e) None of the funds authorized to be appropriated for carrying out this section shall be obligated or expended for maintenance of the highway system.

(f) The provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section.

§ 216. Darien Gap Highway

(a) The United States shall cooperate with the Government of the Republic of Panama and with the Government of Colombia in the construction of approximately two hundred and fifty miles of highway in such countries in the location known as the "Darien Gap" to connect the Inter-American Highway authorized by section 212 of this title with the Pan American Highway System of South America. Such highway shall be known as the "Darien Gap Highway". Funds authorized by this section shall be obligated and expended subject to the same terms, conditions, and requirements with respect to the Darien Gap Highway as are funds authorized for the Inter-American Highway by subsection (a) of section 212 of this title.

(b) The construction authorized by this section shall be under the administration of the Secretary who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Government, and such negotiations with the Governments of the Republic of Panama and Co-

lombia as may be required to carry out the purposes of this section shall be conducted through, or authorized by, the Department of State.

(c) The provisions of this section shall not create nor authorize the creation of any obligation on the part of the Government of the United States with respect to any expenditures for highway survey or construction heretofore or hereafter undertaken in Panama or Colombia, other than the expenditures authorized by the provision of this section.

(d) Appropriations made pursuant to any authorization for the Darien Gap Highway shall be available for expenditure by the Secretary for necessary administrative and engineering expenses in connection with the Darien Gap Highway program.

(e) For the purposes of this section the term "construction" does not include any costs of rights-of-way, relocation assistance, or the elimination of hazards of railway grade crossings.

§ 217. Bicycle transportation and pedestrian walkway

(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects, construct pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

(b)(1) To encourage energy conservation, including the develoment, improvement, and use of bicycle transportation, the States may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles, and carry out nonconstruction projects related to safe bicycle use. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for bicycle projects authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

(2) In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway, other than a highway access to which is fully controlled, on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

(3) No bicycle project shall be authorized by this section unless the Secretary shall have determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

(c) For all purposes of this title, a pedestrian walkway project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such pedestrian walkway project shall be 100 per centum.

(d) For all purposes of this title, a bicycle project authorized by subsection (b) of this section shall be deemed to be a highway project, and the Federal share payable on account of such bicycle project shall be 100 per centum.

(e) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trials, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways in conjunction with such trails, roads, highways, and parkways.

(f) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of bicycle routes.

(g) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes and, when snow conditions and State or local regulations permit, snowmobiles.

(h) Not more than $45,000,000 of funds authorized to be appropriated in any fiscal year may be obligated for projects authorized by subsections (a), (b), (e), and (f) of this section. No State shall obligate more than $4,500,000 for such projects in any fiscal year, except that the Secretary may, upon application, waive this limitation for a State for any fiscal year.

§ 218. Alaska Highway

(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended. Notwithstanding any other provision of law, in addition to such funds, upon agreement with the State of Alaska, the Secretary is authorized to expend on such highway any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum. Notwithstanding any other provision of law, any obligation limitation enacted for fiscal year 1983 or for any other fiscal year thereafter shall not apply to projects authorized by the preceding sentence. No expenditures shall be made for the construction of such highways until an agreement has been reached by the Government of Canada and the Government of the United States which shall provide, in part, that the Canadian Government—

(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of such highways;

(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

(b) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary.

§ 219. Safer off-system roads

(a) The Secretary is authorized to make grants to States for projects for the construction, reconstruction, and improvement of any off-system road, including, but not limited to, the correction of safety hazards, the replacement of bridges, the elimination of high-hazard locations and roadside obstacles.

(b) On October 1 of each fiscal year the Secretary shall apportion the sums authorized to be appropriated to carry out this section among the several States as follows:

(1) Two-thirds according to the following formula—

(A) one-third in the ratio which the area of each State bears to the total area of all States;

(B) one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States; and

(C) one-third in the ratio in which the off-system road mileage of each State bears to the total off-system road mileage of all the States. Off-system road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

(2) One-third in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

(c) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis. Not less than 50 per centum of the funds obligated in any State under this section in any fiscal year shall be obligated for highway safety improvement projects.

(d) In any State wherein the State is without legal authority to construct or maintain a project under this section, such State shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the county or municipality in which such project is located.

(e) Sums apportioned under this section and programs and projects under this section shall be subject to all of the provisions of chapter 1 of this title applicable to highways on the Federal-aid secondary system except the formula for apportionment, the requirement that these roads be on the Federal-aid system, and those other provisions determined by the Secretary to be inconsistent

with this section. The Secretary is not authorized to determine as inconsistent with this section any provision relating to the obligation and availability of funds.

(f) As used in this section, the term "off-system road" means any toll-free road (including bridges), which road is not on any Federal-aid system and which is under the jurisdiction of and maintained by a public authority and open to public travel.

Chapter 3.—GENERAL PROVISIONS

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§ 301. Freedom from tolls

Except as provided in section 129 of this title with respect to certain toll bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.

§ 302. State highway department

(a) Any State desiring to avail itself of the provisions of this title shall have a State highway department which shall have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title. Among other things, the organization shall include a secondary road unit. In meeting the provisions of this subsection, a State may engage to the extent necessary or desirable, the services of private engineering firms.

(b) The State highway department may arrange with a county or group of counties for competent highway engineering personnel suitably organized and equipped to the satisfaction of the State Highway department, to supervise construction and maintenance on a county-unit or group-unit basis, for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof.

§ 303. [Repealed P.L. 97-449.]

§ 304. Participation by small business enterprises

It is declared to be in the national interest to encourage and develop the actual and potential capacity of small business and to utilize this important segment of our economy to the fullest practicable extent in construction of the Federal-aid highway systems, including the Interstate System. In order to carry out that intent and encourage full and free competition, the Secretary should assist, insofar as feasible, small business enterprises in obtaining contracts in connection with the prosecution of the highway program.

§ 305. Archeological and paleontological salvage

Funds authorized to be appropriated to carry out this title to the extent approved as necessary by the highway department of any State, may be used for archeological and paleontological salvage in that State in compliance with the Act entitled "An Act for the preservation of American antiquities", approved June 8, 1906 (34 Stat. 225), and State laws where applicable.

§ 306. Mapping

In carrying out the provisions of this title, the Secretary may, wherever practicable, authorize the use of photogrammetric methods in mapping, and the utilization of commercial enterprise for such services.

§ 307. Research and planning

(a) The Secretary is authorized in his discretion to engage in research on all phases of highway construction, modernization, development, design, maintenance, safety, financing, and traffic conditions, including the effect thereon of State laws and is authorized to test, develop, or assist in the testing and developing of any material, invention, patented article, or process. The Secretary may publish the results of such research. The Secretary may carry out the authority granted hereby, either independently, or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization, or person. The Secretary is also authorized, acting independently or in cooperation with other Federal departments, agencies, or instrumentalities, to make grants for research fellowships for any purpose for which research is otherwise authorized by this section. The funds required to carry out the provisions of this subsection shall be taken out of the administrative and research funds authorized by section 104 of this title, funds authorized to carry out section 403 of this title, and such funds as may be deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts or agreements made under the authority of this subsection.

(b) The Secretary shall include in the highway research program herein authorized studies of economic highway geometrics, structures, and desirable weight and size standards for vehicles using the public highways and of the feasibility of uniformity in State

regulations with respect to such standards. The highway research program herein authorized shall also include studies to identify and measure, quantitively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects.

(c)(1) Not to exceed 1½ per centum of the sums apportioned for each fiscal year beginning with fiscal year 1974 to any State under section 104, of this title shall be available for expenditure upon request of the State highway department, with the approval of the Secretary, with or without State funds, for engineering and economic surveys and investigations; for the planning of future highway programs and local public transportation systems and for planning for the financing thereof; for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and for research and development, necessary in connection with the planning, design, construction, and maintenance of highways and highway systems and for study, research and training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing, and the regulation and taxation of their use.

(2) One and one-half per centum of the sums apportioned for each fiscal year beginning with the fiscal year 1983 to any State under sections 104 and 144 of this title shall be available for expenditure by the State highway department only for the purposes enumerated in paragraph (1) of this subsection.

(3) In addition to the percentage provided in paragraph (2) of this subsection, not to exceed one-half of one per centum of sums apportioned for each fiscal year beginning with the fiscal year 1964 under paragraphs (1), (2), and (3) of section 104(b) of this title shall be available for expenditure upon request of the State highway department for the purposes enumerated in paragraph (1) of this subsection, including demonstration projects in connection with such purposes.

(4) Sums made available under paragraphs (2) and (3) of this subsection shall be matched by the State in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

(5) The sums provided pursuant to paragraph (2) of this subsection shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned under section 104(b)(1) of this title.

(d) As used in this section the term "safety" includes, but is not limited to, highway safety systems, research, and development relating to vehicle, highway, and driver characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

(e) The Secretary shall report to the Congress in January 1983, and in January of every second year thereafter, estimates of the future highway needs of the Nation.

§ 308. Cooperation with Federal and State agencies and foreign countries

(a) The Secretary is authorized to perform by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Government agencies, cooperating foreign countries, and State cooperating agencies, and reimbursement for such services, which may include depreciation on engineering and roadbuilding equipment used, shall be credited to the appropration concerned.

(b) Appropriations for the work of the Federal Highway Administration shall be available for expenses of warehouse maintenance and the procurement, care, and handling of supplies, materials, and equipment for distribution of projects under the supervision of the Federal Highway Administration, or for sale or distribution to other Government agencies, cooperating foreign countries, and State cooperating agencies, and the cost of such supplies and materials or the value of such equipment, including the cost of transportation and handling, may be reimbursed to current applicable appropriations.

§ 309. Cooperation with other American Republics

The President is authorized to utilize the services of the Federal Highway Administration in fulfilling the obligations of the United States under the Convention on the Pan-American Highway Between the United States and Other American Republics (51 Stat. 152), cooperating with several governments, members of the Organization of American States, in connection with the survey and construction of the Inter-American Highway, and for performing engineering service in the other American Republics for and upon the request of any agency or governmental corporation of the United States. To the extent authorized in appropriation acts, administrative funds available in accordance with subsection (a) of section 104 of this title shall be available annually for the purpose of this section.

§ 310. Civil defense

In order to assure that adequate consideration is given to civil defense aspects in the planning and construction of highways constructed or reconstructed with the aid of Federal funds, the Secretary of Transportation is authorized and directed to consult, from time to time, with the Federal Civil Defense Administrator relative to the civil defense aspects of highways so constructed or reconstructed.

§ 311. Highway improvements strategically important to the national defense

Funds made available under subsection (a) of section 104 of this title may be used to pay the entire engineering costs of the surveys, plans, specifications, estimates, and supervision of construction of projects for such urgent improvements of highways strategically important from the standpoint of the national defense as may be undertaken on the order of the Secretary and as the result of re-

quest of the Secretary of Defense or such other official as the President may designate. With the consent of a State, funds made available under subsection (b) of section 104 of this title may be used to the extent deemed necessary and advisable by the Secretary to carry out the provisions of this section.

§ 312. Detail of Army, Navy, and Air Force officers

The Secretary of Defense, upon request of the Secretary, is authorized to make temporary details to the Federal Highway Administration of officers of the Army, the Navy, and the Air Force, without additional compensation, for technical advice and for consultation regarding highway needs for the national defense. Travel and subsistence expenses of offices so detailed shall be paid from appropriations available to the Department of Transportation on the same basis as authorized by law and by regulations of the Department of Defense for such officers.

§ 313. [Repealed P.L. 89-564.]

§ 314. Relief of employees in hazardous work

The Secretary is authorized in an emergency to use appropriations to the Department of Transportation for carrying out the provisions of this title for medical supplies, services, and other assistance necessary for the immediate relief of employees of the Federal Highway Administration engaged in hazardous work.

§ 315. Rules, regulations, and recommendations

Except as provided in sections 204(d), 205(a), 206(b), 207(b), and 208(c) of this title, the Secretary is authorized to prescribe and promulgate all needful rules and regulations for the carrying out of the provisions of this title. The Secretary may make such recommendations to the Congress and State highway departments as he deems necessary for preserving and protecting the highways and insuring the safety to traffic thereon.

§ 316. Consent by United States to conveyance of property

For the purposes of this title the consent of the United States is given to any railroad or canal company to convey to the State highway department of any State, or its nominee, any part of its right-of-way or other property in that State acquired by grant from the United States.

§ 317. Appropriation for highway purposes of lands or interests in lands owned by the United States

(a) If the Secretary determines that any part of the lands or interests in lands owned by the United States is reasonably necessary for the right-of-way of any highway, or as a source of materials for the construction or maintenance of any such highway adjacent to such lands or interests in lands, the Secretary shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which it is desired to appropriate.

(b) If within a period of four months after such filing, the Secretary of such Department shall not have certified to the Secretary

that the proposed appropriation of such land or material is contrary to the public interest or inconsistent with the purposes for which such land or materials have been reserved, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the adequate protection and utilization of the reserve, then such land and materials may be appropriated and transferred to the State highway department, or its nominee, for such purposes and subject to the conditions so specified.

(c) If at any time the need for any such lands or materials for such purposes shall no longer exist, notice of the fact shall be given by the State highway department to the Secretary and such lands or materials shall immediately revert to the control of the Secretary of the Department from which they had been appropriated.

(d) The provisions of this section shall apply only to projects constructed on a Federal-aid system or under the provisions of chapter 2 of this title.

§ 318. Highway relocation due to airport

Federal highway funds shall not be used for the reconstruction or relocation of any highway giving access to an airport constructed or extended after December 20, 1944, or for the reconstruction or relocation of any highway which has been or may be closed or the usefulness of which has been or may be impaired by the location or construction of any airport constructed or extended after December 20, 1944, unless, prior to such construction or extension as the case may be, the State highway department and the Secretary have concurred with the officials in charge of the airport that the location of such airport or extension thereof and the consequent reconstruction or relocation of the highway are in the public interest.

§ 319. Landscaping and scenic enhancement

The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to such highways.

§ 320. Bridges on Federal dams

(a) Each executive department, independent establishment, office, board, bureau, commission, authority, administration, corporation wholly owned or controlled by the United States, or other agency of the Government of the United States, hereinafter collectively and individually referred to as "agency", which on or after July 29, 1946, has jurisdiction over and custody of any dam constructed or to be constructed and owned by or for the United States, is authorized, with any funds available to it, to design and construct any such dam in such manner that it will constitute and serve as a suitable and adequate foundation to support a public highway bridge upon and across such dam, and to design and construct upon the foundation thus provided a public highway bridge

upon and across such dam. The highway department of the State in which such dam shall be located, jointly with the Secretary, shall first determine and certify to such agency that such bridge is economically desirable and needed as a link in the State or Federal-aid highway systems, and shall request such agency to design and construct such dam so that it will serve as a suitable and adequate foundation for a public highway bridge and to design and construct such public highway bridge upon and across such dam, and shall agree to reimburse such agency pursuant to subsection (d) of this section for any additional costs which it may be required to incur because of the design and construction of such dam so that it will serve as a foundation for a public highway bridge and for expenditures which it may find it necessary to make in designing and constructing such public highway bridge upon and across such dam. In no case shall the design and construction of a bridge upon and across such dam be undertaken hereunder except by the agency having jurisdiction over and custody of the dam, acting directly or through contractors employed by it, and after such agency shall detemine that it will be structurally feasible and will not interfere with the proper functioning and operation of the dam.

(b) Construction of any bridge upon and across any dam pursuant to this section shall not be commenced unless and until the State in which such bridge is to be located, or the appropriate subdivision of such State, shall enter into an agreement with such agency and with the Secretary to construct, or cause to be constructed, with or without the aid of Federal funds, the approach roads necessary to connect such bridge with existing public highways and to maintain, or cause to be maintained, such approach roads from and after their completion. Such agreement may also provide for the design and construction of such bridge upon and across the dam by such agency of the United States and for reimbursing such agency the costs incurred by it in the design and construction of the bridge as provided in subsection (d) of this section. Any such agency is hereby authorized to convey to the State, or to the appropriate subdivision thereof, without costs, such easements and rights-of-way in its custody or over lands of the United States in its custody and control as may be necessary, convenient, or proper for the location, construction, and maintenance of the approach roads referred to in this section including such roadside parks or recreational areas of limited size as may be deemed necessary for the accommodation of the traveling public. Any bridge constructed pursuant to this section upon and across a dam in the custody and jurisdiction of any agency of the United States, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall constitute and remain a part of said dam and be maintained by the agency. Any such agency may enter into any such contracts and agreements with the State or its subdivisions respecting public use of any bridge so located and constructed as may be deemed appropriate, but no such bridge shall be closed to public use by the agency except in cases of emergency or when deemed necessary in the interest of national security.

(c) All costs and expenses incurred and expenditures made by any agency in the exercise of the powers and authority conferred by this section (but not including any costs, expenses, or expendi-

tures which would have been required in any event to satisfy a legal road or bridge relocation obligation or to meet operating or other agency needs) shall be recorded and kept separate and apart from the other costs, expenses, and expenditures of such agency, and no portion thereof shall be charged or allocated to flood control, navigation, irrigation, fertilizer production, the nationai defense, the development of power, or other programs, purpose, or function of such agency.

(d) Not to exceed $65,000,000 of any money heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title or prior Acts shall be available for expenditure by the Secretary in accordance with the provisions of this section, as an emergency fund, to reimburse any agency for any additional costs or expenditures which it may be required to incur because of the design and construction of any such dam so that it will constitute and serve as a foundation for a public highway bridge upon and across such dam and to reimburse any such agency for any costs, expenses, or expenditures which it may be required to make in designing and constructing any such bridge upon and across a dam in accordance with the provisions of this section, except such costs, expenses, or expenditures as would have been required of such agency in any event to satisfy a legal obligation to relocate a highway or bridge or to meet operating or other agency needs, and there is authorized to be appropriated any sum or sums necessary to reimburse the funds so expended by the Secretary from time to time under the authority of this section. Of each bridge constructed upon and across a dam under the provisions of this section, there may be financed wholly with Federal funds that portion thereof which is located within the physical limits of the masonry structure, or structures, of the dam, and the Secretary shall in his sole discretion determine what additional portion of the bridge, if any, may be so financed, such determination to be final and conclusive. The remainder of the bridge, and any necessary related approach roads, shall be financed by the State or its appropriate subdivision with or without the aid of Federal funds; but said portion of the bridge so financed by the State or its subdivisions, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall nevertheless be designed and constructed solely by the agency having custody and jurisdiction of the dam as provided in subsection (a) of this section.

(e) In making, reviewing, or approving the design of any bridge or approach structure to be constructed under this section, the agency shall, in matters relating to roadway design, loadings, clearances and widths, and traffic safeguards, give full consideration to and be guided by the standards and advice of the Secretary.

(f) The authority conferred by this section shall be in addition to and not in limitation of authority conferred upon any agency by any other law, and nothing in this section contained shall affect or be deemed to relate to any bridge approach structure, or highway constructed or to be constructed by any such agency in furtherance of its lawful purposes and requirements or to satisfy a legal obligation incurred independently of this section.

§ 321. National Highway Institute

(a) The Secretary is authorized and directed to establish and operate in the Federal Highway Administration a National Highway Institute hereafter referred to as the "Institute". The Institute shall develop and administer, in cooperation with the State highway departments, training programs of instruction for Federal Highway Administration and State and local highway department employees engaged or to be engaged in Federal-aid highway work. Such programs may include, but not be limited to, courses in modern developments, techniques, and procedures, relating to highway planning, environmental factors, acquisition of rights-of-way, engineering, construction, maintenance, contract administration, and inspection. The Secretary shall administer all authority vested in him by this title or by any other provision of law for the development and conduct of educational and training programs relating to highways through the Institute. Sums authorized to be deducted for administrative purposes by subsection (a) of section 104 of this title shall be available for carrying out this subsection.

(b) Not to exceed one-half of 1 per centum of all funds apportioned for any fiscal year beginning after June 30, 1970, to any State under paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for expenditure by the State highway department, subject to approval by the Secretary, for payment of not to exceed 75 per centum of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

(c) Education and training of Federal, State, and local highway employees authorized by this section may be provided by the Secretary, or, in the case where such education and training is to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, institutions, and individuals.

§ 322. Demonstration project—rail crossings

(a) The Secretary shall carry out a demonstration project for the elimination of all public ground-level rail-highway crossings along the route of the high-speed ground transportation demonstration projects between Washington, District of Columbia, and Boston, Massachusetts. The Secretary may permit selected individual public crossings of unusually low-potential hazard to remain at ground level, if they are provided with the best available protection.

(b) The Secretary shall carry out a demonstration project for the elimination or protection of certain public ground-level rail-highway crossings in, or in the vicinity of, Greenwood, South Carolina.

(c)(1) If the highway involved is on any Federal-aid system, the Federal share of the cost of such work shall be 90 per centum and the railroad's share of such cost shall be 10 per centum.

(2) If the highway involved is not on any Federal-aid system, the Federal share of the cost of such work shall be 80 per centum and the railroad's share of such cost shall be 10 per centum and the

remaining 10 per centum of such cost shall be paid by the State in which such crossing is located.

(d) Before paying any part of the cost of the demonstration projects authorized by this section, the Secretary shall enter into such agreements with the States and railroads involved to insure that all non-Federal costs will be provided as required by this section.

(e) The Secretary, in cooperation with State highway departments, shall conduct a full and complete investigation and study of the problem of providing increased highway safety at public and private ground-level rail-highway crossings on a nationwide basis through the elimination of such crossings or otherwise, including specifically high-speed rail operations in all parts of the country, and report to Congress his recommendations resulting from such investigation and study not later than July 1, 1972, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of this title are authorized to be used to carry out the investigation and study required by this subsection.

(f) There is authorized to be appropriated not to exceed $9,000,000 from the Highway Trust Fund to carry out paragraph (1) of subsection (c) of this section. There is authorized to be appropriated out of the general fund not to exceed $22,000,000 to carry out paragraph (2) of subsection (c) of this section.

§ 323. Donations

Nothing in this title, or in any other provision of law, shall be construed to prevent a person whose real property is being acquired in connection with a project under this title, after he has been fully informed of his right to receive just compensation for the acquisition of his property, from making a gift or donation of such property, or any part thereof, or of any of the compensation paid therefor, to a Federal agency, a State or a State agency, or a political subdivision of a State, as said person shall determine.

§ 324. Prohibition of discrimination on the basis of sex

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

Chapter 4.—HIGHWAY SAFETY

Sec.

401. Authority of the Secretary.
402. Highway safety programs.
403 Highway safety research and development.
404. National Highway Safety Advisory Committee.
405. [Repealed.]
406. School bus driver training.
407. Innovative project grants.
408. Alcohol traffic safety programs.

§ 401. Authority of the Secretary

The Secretary is authorized and directed to assist and cooperate with other Federal departments and agencies, State and local governments, private industry, and other interested parties, to increase highway safety. For the purposes of this chapter, the term "State" means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

§ 402. Highway safety programs

(a) Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Such programs shall be in accordance with uniform standards promulgated by the Secretary. Such uniform standards shall be expressed in terms of performance criteria. Such uniform standards shall be promulgated by the Secretary so as to improve driver performance (including, but not limited to, driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance, and bicycle safety. In addition such uniform standards shall include, but not be limited to provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, and emergency services. Such standards as are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations. The Secretary shall be authorized to amend or waive standards on a temporary basis for the purpose of evaluating new or different highway safety programs instituted on an experimental, pilot, or demonstration basis by one or more States, including, but not limited to, such programs for identifying accident causes, adopting measures to reduce accidents, and evaluating effectiveness of such measures, where the Secretary finds that the public interest would be served by such amendment or waiver.

(b)(1) The Secretary shall not approve any State highway safety program under this section which does not—

(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers, and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program.

(B) authorize political subdivisions of such State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the uniform standards of the Secretary promulgated under this section.

(C) provide that at least 40 per centum of all Federal funds apportioned under this section to such State for any fiscal year will be expended by the political subdivisions of such State in carrying out local highway safety programs authorized in accordance with subparagraph (B) of this paragraph.

(D) provide for comprehensive driver training programs, including (1) the initiation of a State program for driver education in the school systems or for a significant expansion and improvement of such a program already in existence, to be administered by appropriate school officials under the supervision of the Governor as set forth in subparagraph (A) of this paragraph; (2) the training of qualified school instructors and their certification; (3) appropriate regulation of other driver training schools, including licensing of the schools and certification of their instructors; (4) adult driver training programs, and programs for the retraining of selected drivers; (5) adequate research, development and procurement of practice driving facilities, simulators, and other similar teaching aids for both school and other driver training use; and (6) driver education programs, including research, that will assure greater safety for bicyclists using public roads in such State.

(E) provide adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrain crosswalks throughout the State.

(F) provide for programs (which may include financial incentives and disincentives) to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

(2) The Secretary is authorized to waive the requirement of subparagraph (C) of paragraph (1) of this subsection, in whole or in part, for a fiscal year for any State whenever he determines that there is an insufficient number of local highway safety programs to justify the expenditure in such State of such percentage of Federal funds during such fiscal year.

(c) Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom. Such funds shall be subject to a deduction not to exceed 5 per centum for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States. For the fiscal years ending June 30, 1967, June 30, 1968, and June 30, 1969, such funds shall be apportioned 75 per centum on the basis of population and 25 per centum as the Secretary in his administrative discretion may deem appropriate and thereafter such funds shall be apportioned 75 per centum in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. For the purposes of this subsection, a "public road"

means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than one-half of 1 per centum of the total apportionment, except that the apportionments to the Virgin Islands, Guam, and American Samoa shall not be less than one-quarter of 1 per centum of the total apportionment. After December 31, 1969, the Secretary shall not apportion any funds under the subsection to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section. For the purpose of the seventh sentence of this subsection, a highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a standard promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform standard, or with every element of every uniform standard, in every State. Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 per centum of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approved such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction. The Secretary shall promptly apportion to the State the funds withheld from its apportionment if he approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than 30 days after such determination.

(d) All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds other than provisions relating to the apportionment formula and provisons limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section, and except that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such

fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary. In applying such provisions of chapter 1 in carrying out this section the term "State highway department" as used in such provisions shall mean the Governor of a State for the purposes of this section.

(e) Uniform standards promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

(f) The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform standards for the highway safety programs contemplated by subsection (a) and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

(g) Nothing in this section authorizes the appropriation or expenditure of funds for (1) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into standards) or (2) any purpose for which funds are authorized by section 403 of this title.

(h) Repealed. Public Law 97-35 § 1107(c).

(i) For the purpose of the application of this section on Indian reservations, "State" and "Governor of a State" includes the Secretary of the Interior and "political subdivision of a State" includes an Indian tribe: *Provided,* That, notwithstanding the provisions of subparagraph (C) of subsection (b)(1) hereof, 95 per centum of the funds apportioned to the Secretary of the Interior after date of enactment, shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions: *And provided further,* That the provisions of subparagraph (E) of subsection (b)(1) hereof shall be applicable except in those tribal jurisdictions in which the Secretary determines such programs would not be practicable.

(j) The Secretary of Transportation shall, not later than September 1, 1981, begin a rulemaking process to determine those programs most effective in reducing accidents, injuries, and deaths. Such rule shall be promulgated taking into account consideration of the States having a major role in establishing these programs. Not later than April 1, 1982, the Secretary shall promulgate a final rule establishing those programs determined most effective in reducing accidents, injuries, and deaths. Before such rule shall take effect, it shall be transmitted to Congress. If such rule is not transmitted by April 1, 1982, it shall not take effect before October 1, 1983. If such rule is transmitted by April 1, 1982, it shall take effect October 1, 1982, unless before June 1, 1982, either House of Congress by resolution disapproves such rule. If such rule is disapproved by either House of Congress, the Secretary shall not appor-

tion or obligate any amount authorized to carry out this section for the fiscal year ending September 30, 1983, or any subsequent fiscal year, unless specifically authorized to do so by a statute enacted after the date of enactment of the Omnibus Budget Reconciliation Act of 1981. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under this chapter.

(k)(1) Subject to the provisions of this subsection, the Secretary shall make a grant to any State which includes, as part of its highway safety program under section 402 of this title, the use of a comprehensive computerized safety recordkeeping system designed to correlate data regarding traffic accidents, drivers, motor vehicles, and roadways. Any such grant may only be used by such State to establish and maintain a comprehensive computerized traffic safety recordkeeping system or to obtain and operate components to support highway safety priority programs identified by the Secretary under this section. Notwithstanding any other provision of law, if a report, list, schedule, or survey is prepared by or for a State or political subdivision thereof under this subsection, such report, list, schedule, or survey shall not be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report, list, schedule, or survey.

(2) No State may receive a grant under this subsection in more than two fiscal years.

(3) The amount of the grant to any State under this subsection for the first fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1985 under this section. The amount of a grant to any State under this subsection for the second fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1986 under this section.

(4) A State is eligible for a grant under this subsection if—

(A) it certifies to the Secretary that it has in operation a computerized traffic safety recordkeeping system and identifies proposed means of upgrading the system acceptable to the Secretary; or

(B) it provides to the Secretary a plan acceptable to the Secretary for establishing and maintaining a computerized traffic safety recordkeeping system.

(5) The Secretary, after making the deduction authorized by the second sentence of subsection (c) of this section for fiscal years 1985 and 1986, shall set aside 10 per centum of the remaining funds authorized to be appropriated to carry out this section for the purpose of making grants under this subsection. Funds set aside under this subsection shall remain available for the fiscal year authorized and for the succeeding fiscal year and any amounts remaining unexpended at the end of such period shall be apportioned in accordance with the provisions of subsection (c) of this section.

§ 403. Highway safety research and development

(a) The Secretary is authorized to use funds appropriated to carry out this subsection to carry out safety research which he is authorized to conduct by subsection (a) of section 307 of this title. In addition, the Secretary may use the funds appropriated to carry out this section, either independently or in cooperation with other Federal departments or agencies, for making grants to or contracting with State or local agencies, institutions, and individuals for (1) training or education of highway safety personnel, (2) research fellowships in highway safety, (3) development of improved accident investigation procedures, (4) emergency service plans, (5) demonstration projects, and (6) related activities which the Secretary deems will promote the purposes of this section. The Secretary shall assure that no fees are charged for any meetings or services attendant thereto or other activities relating to training and education of highway safety personnel.

(b) In addition to the research authorized by subsection (a) of this section, the Secretary, in consultation with such other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles; and

(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver accident involvement to highway safety.

(c) The research authorized by subsection (b) of this section may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals.

(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this title, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section.

(e) In addition to the research authorized by subsection (a) of this section, the Secretary shall, either independently or in cooperation with other Federal departments or agencies, conduct research into, and make grants to or contracts with State or local agencies, institutions, and individuals for projects to demonstrate the administrative adjudication of traffic infractions. Such administrative adjudication demonstration projects shall be designed to improve highway safety by developing fair, efficient, and effective processes and procedures for traffic infraction adjudication, utilizing appropriate punishment, training, and rehabilitative measures for traffic offenders. The Secretary shall report to Congress by July 1, 1975, and each year thereafter during the continuance of the program, on the research and demonstration projects authorized by this subsection, and shall include in such report a comparison of the fairness, efficiency, and effectiveness of administrative adjudication of traffic infractions with other methods of handling such infractions.

(f) In addition to the research authorized by subsection (a) of this section, the Secretary shall carry out research, development, and

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demonstration projects to improve and evaluate the effectiveness of various types of driver education programs in reducing traffic accidents and deaths, injuries, and property damage resulting therefrom. The research, development, and demonstration projects authorized by this subsection may be carried out by the Secretary through grants and contracts with public and private agencies, institutions, and individuals. The Secretary shall report to the Congress by July 1, 1975, and each year thereafter during the continuance of the program, on the research, development, and demonstration projects authorized by this subsection, and shall include in such report an evaluation of the effectiveness of driver education programs in reducing traffic accidents and deaths, injuries, and property damage resulting therefrom.

§ 404. National Highway Safety Advisory Committee

(a)(1) There is established in the Department of Transportation a National Highway Safety Advisory Committee, composed of the Secretary or an officer of the Department appointed by him, the Federal Highway Administrator, the National Highway Traffic Safety Administrator, and thirty-five members appointed by the President, no more than four of whom shall be Federal officers or employees. The Secretary shall select the Chairman of the Committee from among the Committee members. The appointed members, having due regard for the purposes of this chapter, shall be selected from among representatives of various State and local governments, including State legislatures, of public and private interests contributing to, affected by, or concerned with highway safety, including the national organizations of passenger car, bus, and truck owners, and of other public and private agencies, organizations, or groups demonstrating an active interest in highway safety, as well as research scientists and other individuals who are expert in this field.

(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of members first taking office after the date of enactment of this section shall expire as follows: Twelve at the end of one year after the date such committee members are appointed by the President, twelve at the end of two years after the date such committee members are appointed by the President, and eleven at the end of three years after the date such committee members are appointed, as designated by the President at the time of appointment, and (iii) the term of any member shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the President who has served a three-year term, other than Federal officers or employees, shall be eligible for reappointment within one year following the end of his preceding term.

(B) Members of the committee who are not officers or employees of the United States shall, while attending meetings or conferences of such Committee or otherwise engaged in the business of such Committee, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including travel-

time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized in section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

(b) The National Highway Safety Advisory Committee shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Department in the field of highway safety. The Committee is authorized (1) to review research projects or programs submitted to or recommended by it in the field of highway safety and recommend to the Secretary, for prosecution under this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of highway accidents; and (2) to review, prior to issuance, standards proposed to be issued by order of the Secretary under the provisions of section 402(a) of this title and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

(c) The National Highway Safety Advisory Committee shall meet from time to time as the Secretary shall direct, but at least once each year.

(d) The Secretary shall provide to the National Highway Safety Committee from among the personnel and facilities of the Department of Commerce such staff and facilities as are necessary to carry out the functions of such Committee.

§ 405. [Repealed P.L. 94–280]

§ 406. School bus driver training

(a) The Secretary is authorized to make grants to the States for the purpose of carrying out State programs approved by him of driver education and training for persons driving school buses.

(b) A State program under this section shall be approved by the Secretary if such program—

(1) provides for the establishment and enforcement of qualifications for persons driving buses;

(2) provides for initial education and training and for refresher courses;

(3) provides for periodic reports to the Secretary on the results of such program; and

(4) includes persons driving publicly operated, and persons driving privately operated, school buses.

(c) Not less than $7,500,000 of the sums authorized to carry out section 402 of this title for fiscal year 1976 shall be obligated to carry out this section. Not less than $7,000,000 of the sums authorized to carry out section 402 of this title for each of the fiscal years 1977 and 1978 shall be obligated to carry out this section. All sums authorized to carry out this section shall be apportioned among the States in accordance with the formula established under subsection (c) of section 402 of this title, and shall be available for obligation in the same manner and to the same extent as if such funds were

apportioned under such subsection (c). The Federal share payable on account of any project to carry out a program under this section shall not exceed 75 per centum of the cost of the project.

§ 407. Innovative project grants

(a) In addition to other grants authorized by this chapter, the Secretary may make grants in any fiscal year to those States, political subdivisions thereof, and nonprofit organizations which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States, political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate.

(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary deems appropriate.

(c) Any State, political subdivision thereof, and nonprofit organization may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

(e) The Secretary shall submit an annual report to the Congress which provides a description of each application received for a grant under this section and an evaluation of innovative projects carried out with grants made under this section.

§ 408. Alcohol traffic safety programs

(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol or a controlled substance. Such grants may only be used by recipient States to implement and enforce such programs.

(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

(1) in the first fiscal year the State receives a grant under this section, 75 per centum of the cost of implementing and enforcing in such fiscal year the alcohol and controlled substance traffic safety program adopted by the State pursuant to subsection (a);

(2) in the second fiscal year the State receives a grant under this section, 50 per centum of the cost of implementing and enforcing in such fiscal year such program; and

(3) in the third fiscal year the State receives a grant under this section, 25 per centum of the cost of implementing and enforcing in such fiscal year such program.

(d)(1) Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(1) shall equal 30 per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title.

(2) Subject to subsection (c), the amount of a supplemental grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(2) shall not exceed 20 per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title. Such supplemental grant shall be in addition to any basic grant received by such State.

(3) Subject to subsection (c), the amount of a special grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(3) shall not exceed 5 per centum of the amount apportioned to such State for fiscal year 1984 under sections 402 and 408 of this title. Such grant shall be in addition to any basic or supplemental grant received by such State.

(e)(1) For purposes of this section, a State is eligible for a basic grant if such State provides—

(A) for the prompt suspension, for a period not less than ninety days in the case of a first offender and not less than one year in the case of any repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer;

(B) for a mandatory sentence, which shall not be subject to suspension or probation, of (i) imprisonment for not less than forty-eight consecutive hours, or (ii) not less than ten days of community service, of any person convicted of driving while intoxicated more than once in any five-year period;

(C) that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated; and

(D) for increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

(2) For purposes of this section, a State is eligible for a supplemental grant if such State is eligible for a basic grant and in addition provides for some or all of the criteria established by the Secretary under subsection (f).

(3) For the purposes of this section, a State is eligible for a special grant if the State enacts a statute which provides that—

(A) any person convicted of a first violation of driving under the influence of alcohol shall receive—

(i) a mandatory license suspension for a period of not less than ninety days; and either

(ii) (I) an assignment of one hundred hours of community service; or

(II) a minimum sentence of imprisonment for forty-eight consecutive hours;

(B) any person convicted of a second violation of driving under the influence of alcohol within five years after a conviction for the same offense, shall receive a mandatory minimum sentence of imprisonment for ten days and license revocation for not less than one year;

(C) any person convicted of a third or subsequent violation of driving under the influence of alcohol within five years after a prior conviction for the same offense shall—

(i) receive a mandatory minimum sentence of imprisonment for one hundred and twenty days; and

(ii) have his license revoked for not less than three years; and

(D) any person convicted of driving with a suspended or revoked license or in violation of a restriction due to driving under the influence of alcohol conviction shall receive a mandatory sentence of imprisonment for at least thirty days, and shall upon release from imprisonment, receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license.

(f) The Secretary shall, by rule, establish criteria for effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol, which criteria shall be in addition to those required for a basic grant under subsection (e)(1). The Secretary shall establish such criteria in cooperation with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary may deem appropriate. Such criteria may include, but need not be limited to, requirements—

(1) for the establishment and maintenance of a statewide driver recordkeeping system from which repeat offenders may be identified and which is accessible in a prompt and timely manner to the courts and to the public;

(2) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while intoxicated;

(3) for the impoundment of any vehicle operated on a State road by any individual whose driver's license is suspended or revoked for an alcohol-related driving offense;

(4) for the establishment in each major political subdivision of a State of locally coordinated alcohol traffic safety programs which are administered by local officals and are financially self-sufficient;

(5) for the grant of presentence screening authority to the courts;

(6) for the setting of the minimum drinking age in such State at twenty-one years of age;

(7) for the consideration of and, where consistent with other provisions of State law and constitution the adoption of, recommendations that the Presidential Commission on Drunk Driving may issue during the period in which rules are being made to carry out this section; and

(8) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while under the influence of a controlled substance or for the establishment of research programs to develop effective means of detecting use of controlled substances by drivers.

(g) There is hereby authorized to be appropriated to carry out this section, out of the Highway Trust Fund, $25,000,000 for the fiscal year ending September 30, 1983, and $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985. All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section. Sums authorized by this subsection shall not be subject to any obligation limitation for State and community highway safety programs.

MISCELLANEOUS HIGHWAY PROVISIONS

SECTION 108(b) OF THE FEDERAL-AID HIGHWAY ACT OF 1956

Sec. 108. National System of Interstate and Defense Highways

(a) * * *

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of expediting the construction, reconstruction, or improvement, inclusive of necessary bridges and tunnels, of the Interstate System, including extensions thereof through urban areas, designated in accordance with the provisions of subsection (d) of section 103 of title 23, United States Code, there is hereby authorized to be appropriated the additional sum of $1,000,000,000 for the fiscal year ending June 30, 1957, which sum shall be in addition to the authorization heretofore made for that year, the additional sum of $1,700,000,000 for the fiscal year ending June 30, 1958, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1959, the additional sum of $2,500,000,000 for the fiscal year ending June 30, 1960, the additional sum of $1,800,000,000 for the fiscal year ending June 30, 1961, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1962, the additional sum of $2,400,000,000 for the fiscal year ending June 30, 1963, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1964, the additional sum of $2,700,000,000 for the fiscal year ending June 30, 1965, the additional sum of $2,800,000,000 for the fiscal year ending June 30, 1966, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1967, the additional sum of $3,400,000,000 for the fiscal year ending June 30, 1968, the additional sum of $3,800,000,000 for the fiscal year ending June 30, 1969, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1970, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1971, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1972, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1973, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1974, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1976, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1978, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1979, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1980, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1981, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1982, the additional sum of $3,200,000,000 for the fiscal year ending September 30, 1983, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1986, the additional sum of

$4,000,000,000 for the fiscal year ending September 30, 1987, and the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1990. Nothing in this subsection shall be construed to authorize the appropriation of any sums to carry out sections 131, 136, or 319(b) of title 23, United States Code, or any provision of law relating to highway safety enacted after May 1, 1966. Beginning with funds authorized to be appropriated for fiscal year 1980, no such funds shall be available for projects to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967. Effective on and after the date of enactment of this sentence, the obligation of funds authorized by this subsection, except for advance construction interstate projects approved before the date of enactment of this sentence, shall be limited to the construction necessary to provide a minimum level of acceptable service on the Interstate System which shall consist of (1) full access control; (2) a pavement design to accommodate the types and volumes of traffic anticipated for the twenty-year period from date of authorization of the initial basic construction contract; (3) essential environmental requirements; (4) a design of not more than six lanes (exclusive of high occupancy vehicle lanes) in rural areas and all urbanized areas under four hundred thousand population, and up to eight lanes (exclusive of high occupancy vehicle lanes) in urbanized areas of four hundred thousand population or more as shown in the 1980 Federal census; and (5) those high occupancy vehicle lanes (including approaches and all directly related facilities) included in the interstate cost estimate for fiscal year 1981. The obligation of funds authorized by this subsection shall be further limited to the actual costs of only those design concepts, locations, geometrics, and other construction features included in the 1981 interstate cost estimate, except in any case where the Secretary of Transportation determines that a provision of Federal law requires a different design, location, geometric, or other construction feature of a type authorized by this subsection. Notwithstanding any other provision of law, including any other provision of this subsection, where a project is to be constructed (1) to provide parking garage ramps in conjunction with high occupancy vehicle lanes which flow into a distributor system emptying directly into ramps for off-street parking with preferential parking for carpools, vanpools, and buses and the ramps are part of an environmental mitigation effort and are designed to feed into an aerial walkway system, or (2) to provide a parking lot near the terminus of an Interstate System spur route which radiates from an Interstate System beltway which will be used as an intermodal transfer facility for a light rail transit project to be constructed in the median of the spur route and the parking lot is part of an environmental mitigation effort, or (3) to provide a parking garage and associated facilities as part of an intermodal transfer facility with a transit system near or within an Interstate System route right-of-way which will have direct and indirect access to the facility by way of local streets and the parking garage and associated facilities are part of an environmental mitigation effort, or (4) to provide for the comprehensive upgrading of

existing high occupancy vehicle lanes, new ramps and parking facilities at mass transit intermodal transfer points on an existing Interstate System route which has temporary high occupancy vehicle lanes in the median and the parking facilities and ramps are part of an environmental mitigation effort, the costs of such parking garage ramps, parking lots, parking garages, associated interchange ramps, high occupancy vehicle lanes, and other associated work eligible under title 23, United States Code, shall be eligible for funds authorized by this subsection as if the costs for these projects were included in the 1981 interstate cost estimate and shall be included as eligible projects in any future interstate cost estimate. For purposes of this subsection, construction necessary to provide a minimum level of acceptable service on the Interstate System shall include, but not be limited to, any construction on the Interstate System which is required under a court order issued before the date of enactment of this sentence.

§ 203 OF THE HIGHWAY SAFETY ACT OF 1973

RAIL-HIGHWAY CROSSINGS

SEC. 203. (a) Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railroad-highway crossings.

(b) In addition to funds which may be otherwise available to carry out section 130 of title 23, United States Code, there is authorized to be appropriated, out of the Highway Trust Fund, for projects for the elimination of hazards of railway-highway crossings on any public road, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, $125,000,000 for the fiscal year ending September 30, 1977, $125,000,000 for the fiscal year ending September 30, 1978, $190,000,000 for the fiscal year ending September 30, 1979, and $190,000,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986. At least half of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated by this subsection shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of title 23, United States Code.

[(c) Repealed. P.L. 95-599 § 203.]

(d) 25 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(2) of title 23, United States Code, 25 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(6) of title 23, United States Code, and 50 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the ratio that total rail-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project shall be 90 percent of the cost thereof.

(e) Each State shall report to the Secretary of Transportation not later than September 30, 1974, and not later than December 30 of each year thereafter, on the progress being made to implement the railroad-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations.

The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1975, and not later than April 1 of each year thereafter, on the progress being made by the States in implementing projects to improve railroad-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a), and include recommendation for future implementation of the railroad-highway crossings program.

(f) Funds authorized by this section may be used to provide local government with funds to be used on a matching basis when State funds are available which may only be spent when local government produces matching funds for the improvement of railroad crossings.

§ 105 OF THE FEDERAL-AID HIGHWAY ACT OF 1978

INTERSTATE SYSTEM RESURFACING

SEC. 105. In addition to any other funds authorized to be appropriated, there is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1980 and September 30, 1981, and not to exceed $275,000,000 for the fiscal year ending September 30, 1982, not to exceed $800,000,000 for the fiscal year ending September 30, 1983, not to exceed $1,950,000,000 for the fiscal year ending September 30, 1984, not to exceed $2,400,000,000 for the fiscal year ending September 30, 1985, not to exceed $2,800,000,000 for the fiscal year ending September 30, 1986, and not to exceed $3,150,000,000 for the fiscal year ending September 30, 1987. Such sums shall be obligated for projects for resurfacing, restoring, and rehabilitating those lanes on the Interstate System which have been in use for more than five years and which are not toll roads, except that where a State certifies to the Secretary that any part of such sums are excess to the needs of such State for resurfacing, restoring or rehabilitating Interstate System lanes and the Secretary accepts such certification, such State may transfer sums apportioned to it under section 104(b)(5)(B) to its apportionment under section 104(b)(1). Such sums may also be obligated for projects for resurfacing, restoring, and rehabilitating lanes in use for more than five years on a toll road which has been designated as a part of the Interstate System if an agreement satisfactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections. The agreement referred to in the preceding sentence shall contain a provision requiring that if, for any reason, a toll road receiving Federal assistance under this section does not become free to the public upon collection of sufficient tolls, as specified in the preceding sentence, Federal funds used for projects on such toll road pursuant to this section shall be repaid to the Federal Treasury.

§ 202 OF THE HIGHWAY SAFETY ACT OF 1978

HIGHWAY SAFETY

Sec. 202. The following sums are hereby authorized to be appropriated:

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, and $200,000,000 for the fiscal year ending September 30, 1981.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, and $31,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

(3) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the Federal Highway Administration, out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, and $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

(4) For carrying out in accordance with section 402(c) of title 23, United States Code, section 154 of such title (relating to the national maximum speed limit), other than subsection (i), out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981. For carrying out section 154(i) of such title, out of the Highway Trust Fund, $17,500,000 per fiscal year for each of the fiscal years ending September 30, 1980, and September 30, 1981.

(5) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, out of the Highway Trust Fund, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, and $13,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

(6) For bridge reconstruction and replacement under section 144 of title 23, United States Code, out of Highway Trust Fund, $900,000,000 for the fiscal year ending September 30, 1979, $1,100,000,000 for the fiscal year ending September 30, 1980,

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$1,300,000,000 for the fiscal year ending September 30, 1981, and $900,000,000 for the fiscal year ending September 30, 1982.

(7) For carrying out section 151 of title 23, United States Code (relating to pavement marking), out of the Highway Trust Fund, $65,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(8) For projects for elimination of hazards under section 152 of title 23, United States Code, out of the Highway Trust Fund, $125,000,000 for the fiscal year ending September 30, 1979, $150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $200,000,000 for the fiscal year ending September 30, 1982.

(9) For carrying out section 406 of title 23, United States Code (relating to schoolbus driver training), out of the Highway Trust Fund, $2,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, and $1,500,000 for the fiscal year ending September 30, 1983. Section 406 of title 23, United States Code, is repealed effective upon the obligation and expenditure of all funds authorized to carry out such section.

(10) For carrying out section 407 of title 23, United States Code (relating to innovative project grants), out of the Highway Trust Fund, $5,000,000 for the fiscal year ending September 30, 1980 and $10,000,000 for the fiscal year ending September 30, 1981.

SELECTED PROVISIONS OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

MINIMUM APPORTIONMENT

SEC. 103. (a) For each of the fiscal years 1984, 1985, 1986, and 1987, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5)(A) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, rehabilitation, and reconstruction of the Interstate System within such State, the excess amount shall be eligible for expenditure for those purposes for which funds apportioned under paragraphs (1), (2), and (6) of such section 104(b) may be expended and shall also be available for expenditure to carry out section 152 of title 23, United States Code.

* * * * * * *

OBLIGATION CEILING

SEC. 104. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $12,100,000,000 for fiscal year 1983;
(2) $12,750,000,000 for fiscal year 1984;
(3) $13,550,000,000 for fiscal year 1985; and
(4) $14,450,000,000 for fiscal year 1986.

These limitations shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, or projects covered under section 147 of the Surface Transportation Assistance Act of 1978, or section 9 of the Federal-Aid Highway Act of 1981 or section 118 of the National Visitor Center Facilities Act of 1968. No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code, or section 147 of the Surface Transportation Assistance Act of 1978.

(b) For each of the fiscal years 1983, 1984, 1985, and 1986, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(c) During the period October 1 through December 31, 1982, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (b) for fiscal year 1983, and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection for such fiscal year.

(d) Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of the fiscal years 1983, 1984, 1985, and 1986, revise a distribution of the funds made available under subsection (b) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by this Act and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

* * * * * * *

AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the Highway Trust Fund, $1,850,000,000 (reduced by the amount authorized by the first sentence of section 4(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $2,100,000,000 for the fiscal year ending September 30, 1984, $2,300,000,000 for the fiscal year ending September 30, 1985, and $2,450,000,000 for the fiscal year ending September 30, 1986. For the Federal-aid secondary system in rural areas, out of the Highway Trust fund, $650,000,000 (reduced by the amount authorized by the second sentence of section 4(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $650,000,000 for the fiscal year ending September 30, 1984, $650,000,000 for the fiscal year ending September 30, 1985, and $650,000,000 for the fiscal year ending September 30, 1986.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 (reduced by the amount authorized by section 4(a)(2) of the Federal-Aid Highway Act of 1982) for the fiscal year

ending September 30, 1983, and $800,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(3) For Indian reservation roads, out of the Highway Trust Fund, $75,000,000 for the fiscal year ending September 30, 1983, and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(4) For the Virgin Islands, all such sums as may be required for the continued presence and operation of the office of the territorial representative of the Federal Highway Administration in St. Thomas, Virgin Islands.

(5) For parkways and park highways, out of the Highway Trust Fund, $75,000,000 for the fiscal year ending September 30, 1983 and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(6) For the forest highways, out of the Highway Trust Fund, $50,000,000 (reduced by the amount authorized by section 4(a)(3) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, and $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

(7) For public lands highways, out of the Highway Trust Fund, $50,000,000 (reduced by the amount authorized by section 4(a)(4) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983 and $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.

* * * * * * *

(c) In the case of fiscal years 1983 and 1984, each State shall, with respect to any Federal funds available to such State for expenditure on the Federal-aid primary system in excess of the amount apportioned to such State under section 104(b)(1) of title 23, United States Code, for such expenditure in fiscal year 1982, give priority consideration to those priority primary routes designated in Committee Print Numbered 97-61 of the Committee on Public Works and Transportation of the House of Representatives.

(d) Of the sums apportioned to each State under subsections (a)(1) and (a)(2) of this section for each fiscal year, beginning with fiscal year 1984, not less than 40 per centum of such program funds shall be expended by such State on projects for resurfacing, restoring, rehabilitating, and reconstructing existing highways unless the State certifies to the Secretary that such percentage of funds is in excess of the resurfacing, restoring, rehabilitating, and reconstructing needs of existing highways in the State and the Secretary accepts such certification. The requirement of the preceding sentence shall apply only to that portion of a State's apportionment not used for reimbursing such State for bond retirement under section 122 of title 23, United States Code, or for advance construction funding under section 115 of title 23, United States Code.

* * * * * * *

(f) Except to the extent that the Secretary determines otherwise, not less than 10 per centum of the amounts authorized to be appro-

priated under this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d) of the Small Business Act (15 U.S.C. section 637(d)) and relevent subcontracting regulations promulgated pursuant thereto.

* * * * * * *

FEDERAL-AID PRIMARY FORMULA

SEC. 108. (a) Notwithstanding section 104(b)(1) of title 23, United States Code, and any other provision of law, amounts authorized for fiscal years 1983, 1984, 1985, and 1986 for the Federal-aid primary system (including extensions in urban areas and priority primary routes) shall be apportioned in accordance with this section. The Secretary of Transportation shall determine for each State the higher of (1) the amount which would be apportioned to such State under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be apportioned to such State under the following formula:

> One-half in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census and one-half in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

(b) The Secretary of Transportation shall, for each of the fiscal years 1983, 1984, 1985, and 1986, determine the total of the amounts determined for each State under subsection (a) and shall determine the ratio which the total amount authorized for such fiscal year for the Federal-aid primary system bears to the total of such amounts determined under subsection (a) for such fiscal year.

(c) The amount which shall be apportioned to each State for the Federal-aid primary system (including extensions in urban areas and priority primary routes) for each of the fiscal years 1983, 1984, 1985, and 1986 shall be the amount determined for such State under subsection (a), multiplied by the ratio determined under subsection (b).

(d) Notwithstanding any other provision of law, no State shall receive an apportionment under this section for any fiscal year which is less than the lower of (1) the amount which the State would be apportioned for such fiscal year under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be determined under the formula set forth in subsection (a). Notwithstanding any other provision of law, no State shall receive for any such fiscal year less than one-half of 1 per centum of the total apportionment under this section for such fiscal year. For purposes of this paragraph and subsection (b) of section 103 of this title, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered together as one State. The State consisting of the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Mariana Islands shall not receive less than one-half of 1 per centum of each year's apportionment. There are authorized to be appropriated such sums as may be necessary out of the Highway Trust Fund to carry out this sub-

section. Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

(e) Amounts apportioned under this section shall be deemed to be amounts apportioned under section 104(b)(1) of title 23, United States Code, for purposes of such title and all other provisions of law. Terms used in this section shall have the same meaning such terms have in chapter 1 of title 23, United States Code.

* * * * * * *

TEMPORARY MATCHING FUND WAIVER

SEC. 145. (a) Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary of Transportation under section 106(a), and of any qualifying project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning on the date of enactment of this Act and ending September 30, 1984, shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

(b) For purposes of this section, the term "qualifying project" means a project approved by the Secretary of Transportation under section 106(a) of title 23, United States Code, or a project for which the United States becomes obligated to pay under section 117 of title 23, United States Code, for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) shall not be greater than the excess of—

(1) the sum of the amount of obligation authority distributed to such State for fiscal year 1983 under section 104(b) of this Act, plus the amount, if any, available to such State under section 150 of this Act, pertaining to minimum allocation, over

(2) the amount of obligation authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid Highway Act of 1981.

(d) The total amount of such increases in the Federal share as are made pursuant to subsection (a) for any State shall be repaid to the United States by such State on or before September 30, 1984. Such payments shall be deposited in the Highway Trust Fund and such repaid amounts shall be credited to the appropriate apportionment accounts of such State.

(e) If a State has not made the repayment as required by subsection (d) of this section, the Secretary shall deduct from funds apportioned to such State under section 104(b) of title 23, United States Code, except for paragraph (5)(A), in each of the fiscal years ending September 30, 1985, and September 30, 1986, a pro rata share of each category of such apportioned funds, the total amount of which shall be equal to 50 per centum of the amount needed for repayment. Any amount deducted under this subsection shall be reap-

portioned for the fiscal years 1985 and 1986 in accordance with section 104(b)(1) of title 23, United States Code, to those States which have not received a higher Federal share under this section and to those States which have made the repayment required by subsection (d).

* * * * * * *

BUY AMERICA

SEC. 165. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978 and administered by the Department of Transportation, unless steel and manufactured products used in such project are produced in the United States.

(b) The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

(3) in the case of the procurement of bus and other rolling stock (including train control, communication, and traction power equipment) under the Urban Mass Transportation Act of 1964, that (A) the cost of components which are produced in the United States is more than 50 per centum of the cost of all components of the vehicle or equipment described in this paragraph, and (B) final assembly of the vehicle or equipment described in this paragraph has taken place in the United States;

(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum in the case of projects for the acquisition of rolling stock, and 25 per centum in the case of all other projects.

(c) For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

(d) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under this Act, the Urban Mass Transportation Act of 1964, the Surface Transportation Assistance Act of 1978, or title 23, United States Code, which restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

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HIGHWAY SAFETY AUTHORIZATIONS

SEC. 202. The following sums are hereby authorized to be appropriated:

(1) For bridge replacement and rehabilitation under section 144 of title 23, United States Code, out of the Highway Trust Fund, $1,600,000,000 (reduced by the amount authorized by section 5(a)(1) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $1,650,000,000 for the fiscal year ending September 30, 1984, $1,750,000,000 for the fiscal year ending September 30, 1985, $2,050,000,000 for the fiscal year ending September 30, 1986.

(2) For projects for elimination of hazards under section 152 of title 23, United States Code, out of the Highway Trust Fund, $200,000,000 (reduced by the amount authorized by section 5(a)(2) of the Federal-Aid Highway Act of 1982) for the fiscal year ending September 30, 1983, $200,000,000 for the fiscal year ending September 30, 1984, $200,000,000 for the fiscal year ending September 30, 1985, and $200,000,000 for the fiscal year ending September 30, 1986.

HIGHWAY SAFETY

SEC. 203. (a)(1) There is hereby authorized to be appropriated for carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund (other than the Mass Transit Account), $126,500,000 for the fiscal year ending September 30, 1985, and $132,000,000 for the fiscal year ending September 30, 1986.

(2) Out of the funds authorized to be appropriated under paragraph (1) of this subsection for each of the fiscal years ending September 30, 1985, and September 30, 1986, not less than $20,000,000 per fiscal year shall be obligated under section 402 of title 23, United States Code, for the purpose of enforcing the fifty-five-miles-per-hour speed limit established by section 154 of such title.

(3) Each State shall expend each fiscal year not less than 2 per centum of the amount apportioned to it for such fiscal year of the sums authorized by paragraph (1) of this subsection, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

(4)(A) Each State shall expend each fiscal year not less than 8 per centum of the amount apportioned to it for such fiscal year of the sums authorized by paragraph (1) of this subsection, for developing and implementing comprehensive programs approved by the Secretary of Transportion concerning the use of child restraint systems in motor vehicles. Upon request of the Governor of any State, the Secretary may reduce the amount required to be expended by the State for any fiscal year under the preceding sentence if the State demonstrates to the satisfaction of the Secretary that the percentage of children under the age of four traveling in motor vehicles in the State who are properly restrained by a child restraint system is greater than 75 per centum.

(B) No project for developing and implementing a comprehensive program concerning the use of child restraint systems in motor ve-

hicles may be approved by the Secretary of Transportation in the fiscal years ending September 30, 1985, and September 30, 1986, unless the State applying for approval of such project enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all non-Federal sources for such programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this paragraph.

(C) Subparagraphs (A) and (B) of this paragraph shall not apply to sums authorized to be appropriated for any fiscal year beginning after September 30, 1987.

(b) Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the National Highway Traffic Safety Administration under section 402 of title 23, United States Code, shall not exceed $126,500,000 for the fiscal year ending September 30, 1985, and $132,000,000 for the fiscal year ending September 30, 1986, and the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986.

* * * * * * *

TITLE IV

PART A—COMMERCIAL MOTOR VEHICLE SAFETY

DEFINITIONS

SEC. 401. For purposes of this part, unless the context otherwise requires, the term—

(1) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(A) if such vehicle has a gross vehicle weight rating of ten thousand or more pounds;

(B) if such vehicle is designed to transport more than ten passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801 et seq.);

(2) "employee" means—

(A) a driver of a commercial motor vehicle (including an independent contractor while in the course of personally operating a commercial motor vehicle);

(B) a mechanic;

(C) a freight handler; or

(D) any individual other than an employer;

who is employed by a commercial motor carrier and who in the course of his employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or a political subdivision of a State who is acting within the course of such employment;

(3) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States, any State, or a political subdivision of a State;

(4) "person" means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals;

(5) "Secretary" means the Secretary of Transportation; and

(6) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

GRANTS TO STATES

SEC. 402. (a) Under the terms and conditions of this section, subject to the availability of funds, the Secretary is authorized to make grants to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards, and orders.

(b)(1) The Secretary shall formulate procedures for any State to submit a plan whereby the State agrees to adopt, and to assume responsibility for enforcing Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety, or compatible State rules, regulations, standards and orders. Such plan shall be approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority, resources, and qualified personnel necessary for the enforcement of such rules, regulations, standards, and orders;

(C) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards, and orders;

(D) provides a right of entry and inspection sufficient to enforce such rules, regulations, standards, and orders;

(E) provides that all reports required pursuant to this section be submitted to the State agency, and that such agency make available upon request to the Secretary all such reports;

(F) provides that such State agency will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secretary; and

(G) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable Federal and State safety rules, regulations, standards, and orders.

(2) If a plan submitted under paragraph (1) of this subsection is rejected, the Secretary shall provide the State a written explanation of the Secretary's action and shall permit the State to modify

and resubmit its proposed plan for approval, in accordance with the procedures formulated in such paragraph.

(c) The Secretary shall, on the basis of reports submitted by the State agency, and on the Secretary's own inspections, make a continuing evaluation of the manner in which each State with a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for comment, that a State plan previously approved is not being followed or that it has become inadequate to assure the enforcement of Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or compatible State rules, regulations, standards, or orders, he shall notify the State of withdrawal of approval of such plan. Upon receipt of such notice such plan shall cease to be in effect. Any State aggrieved by a determination of the Secretary pursuant to this subsection may seek judicial review pursuant to chapter 7 of title 5, United States Code. The State may, however, retain jurisdiction in any administrative or judicial enforcement proceeding commenced before the withdrawal of the plan whenever the issues involved do not directly relate to the reasons for the withdrawal of approval of the plan.

(d) The Secretary shall not approve any plan under this section which does not provide that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditure for its last two full fiscal years preceding the date of enactment of this section.

FEDERAL SHARE OF COSTS

SEC. 403. By grants authorized under this part, the Secretary shall reimbuse any State an amount not to exceed 80 per centum of the costs incurred by that State in that fiscal year in the development and implementation of programs to enforce commercial motor vehicle rules, regulations, standards, or orders adopted pursuant to this title. The funds of the State and political subdivisions thereof which are required to be expended under section 402(d) of this title shall not be considered to be part of the non-Federal share. The Secretary is authorized to allocate, among the States whose applications for grants have approved, those amounts appropriated for grants to support such programs, pursuant to such criteria as may be established.

AUTHORIZATIONS

SEC. 404. To carry out the purposes of section 402 of this title, there is authorized to be appropriated out of the Highway Trust Fund not to exceed $10,000,000 in the fiscal year ending September 30, 1984, not to exceed $20,000,000 in the fiscal year ending September 30, 1985, not to exceed $30,000,000 in the fiscal year ending September 30, 1986, not to exceed $40,000,000 in the fiscal year ending September 30, 1987, and not to exceed $50,000,000 in the fiscal year ending September 30, 1988. Appropriated funds authorized by this section shall be used to reimburse States pro rata for the Federal share of costs incurred. Grants made pursuant to the

authority of this part shall be for periods not to exceed one fiscal year, ending at the end of a fiscal year.

PROTECTION OF EMPLOYEES

SEC. 405. (a) No person shall discharge, discipline, or in any manner discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because such employee (or any person acting pursuant to a request of the employee) has filed any complaint or instituted or caused to be instituted any proceeding relating to a violation of a commercial motor vehicle safety rule, regulation, standard, or order, or has testified or is about to testify in any such proceeding.

(b) No person shall discharge, discipline, or in any manner discriminate against an employee with respect to the employee's compensation, terms, conditions, or privileges of employment for refusing to operate a vehicle when such operation constitutes a violation of any Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or health, or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment. The unsafe conditions causing the employee's apprehension of injury must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury, or serious impairment of health, resulting from the unsafe condition. In order to qualify for protection under this subsection, the employee must have sought from his employer, and have been unable to obtain, correction of the unsafe condition.

(c)(1) Any employee who believes he has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) or (b) of this section may, within one hundred and eighty days after such alleged violation occurs, file (or have filed by any person on the employee's behalf) a complaint with the Secretary of Labor alleging such discharge, discipline, or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint of the filing of the complaint.

(2)(A) Within sixty days of receipt of a complaint filed under paragraph (1) of this subsection, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify the complainant and the person alleged to have committed a violation of this section of his findings. Where the Secretary of Labor has concluded that there is reasonable cause to believe that a violation has occurred, he shall accompany his findings with a preliminary order providing the relief prescribed by subparagraph (B) of this paragraph. Thereafter, either the person alleged to have committed the violation or the complainant may, within thirty days, file objections to the findings or preliminary order, or both, and request a hearing on the record, except that the filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be expeditiously conducted. Where a hearing is not timely requested, the preliminary

order shall be deemed a final order which is not subject to judicial review. Upon the conclusion of such hearing, the Secretary of Labor shall issue a final order within one hundred and twenty days. In the interim, such proceedings may be terminated at any time on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) If, in response to a complaint filed under paragraph (1) of this subsection, the Secretary of Labor determines that a violation of subsection (a) or (b) of this section has occurred, the Secretary of Labor shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, and (iii) compensatory damages. If such an order is issued, the Secretary of Labor, at the request of the complainant may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connnection with, the bringing of the complaint upon which the order was issued.

(d)(1) Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) of this section may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred, or the circuit in which such person resided on the date of such violation. The petition for review must be filed within sixty days from the issuance of the Secretary of Labor's order. Such review shall be in accordance with the provisions of chapter 7 of title 5, United States Code, and shall be heard and decided expeditiously.

(2) An order of the Secretary of Labor, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceeding.

(e) Whenever a person has failed to comply with an order issued under subsection (c)(2) of this section, the Secretary of Labor shall file a civil action in the United States district court for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief, reinstatement, and compensatory damages.

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PART B—COMMERCIAL MOTOR VEHICLE LENGTH AND WIDTH LIMITATION

LENGTH LIMITATIONS ON FEDERALLY ASSISTED HIGHWAYS

SEC. 411. (a) Except as provided in subsection (i) of this section, no State shall establish, maintain, or enforce any regulation of commerce which imposes a vehicle length limitation of less than forty-eight feet on the length of the semitrailer unit operating in a truck tractor-semitrailer combination, and of less than twenty-

eight feet on the length of any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination, on any segment of the National System of Interstate and Defense Highways (other than a segment exempted under subsection (i) of this section) and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary of Transportation (hereinafter in this part referred to as the "Secretary"), pursuant to subsection (e) of this section.

(b) Length limitations established, maintained, or enforced by the States under subsection (a) of this section shall apply solely to the semitrailer or trailer or trailers and not to a truck tractor. No State shall establish, maintain, or enforce any regulation of commerce which imposes an overall length limitation on commercial motor vehicles operating in truck-tractor semitrailer or truck tractor semitrailer, trailer combinations. No State shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of trailers or semitrailers of such dimensions as those that were in actual and lawful use in such State on December 1, 1982. No State shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of existing trailers or semitrailers, of up to twenty-eight and one-half feet in length, in a truck tractor-semitrailer-trailer combination if those trailers or semitrailers were actually and lawfully operating on December 1, 1982, within a sixty-five-foot overall length limit in any State.

(c) No State shall prohibit commercial motor vehicle combinations consisting of a truck tractor and two trailing units on any segment of the National System of Interstate and Defense Highways (other than a segment exempted under subsection (i) of this section), and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary pursuant to subsection (e) of this section.

(d) The Secretary is authorized to establish rules to implement the provisions of this section, and to make such determinations as are necessary to accommodate specialized equipment (including, but not limited to, automobile transporters) subject to subsections (a) and (b) of this section.

(e)(1) The Secretary shall designate as qualifying Federal-aid Primary System highways subject to the provisions of subsections (a) and (c) those Primary System highways that are capable of safely accommodating the vehicle lengths set forth therein.

(2) The Secretary shall make an initial determination of which classes of highways shall be designated pursuant to paragraph (1) within 90 days of the date of enactment of this section.

(3) The Secretary shall enact final rules pursuant to paragraph (1) no later than two hundred and seventy days from the date of enactment of this section and may revise such rules from time to time thereafter.

(f) For the purposes of this section, "truck tractor" shall be defined as the noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

(g) The provisions of this section shall take effect ninety days after the date of enactment of this title.

(h) The length limitations described in this section, shall be exclusive of safety and energy conservation devices, such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units or air compressors and other devices, which the Secretary may interpret as necessary for safe and efficient operation of commercial motor vehicles, except that no device excluded under this subsection from the limitations of this section shall have by its design or use the capability to carry cargo.

(i)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section, the Governor may notify the Secretary of such determination and request that the Secretary exempt such segment from one or both of such subsections.

(2) Before making such notification, the Governor shall consult with units of local government within the State in which the specific segment of such System is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that—

(A) can safely accommodate motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section; and

(B) serves the area in which such segment is located.

(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

(4)(A) If the Secretary determines, upon request by a Governor under paragraph (1) of this subsection or on the Secretary's own initiative, that any segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the lengths set forth in subsection (a) of this section or motor vehicle combinations described in subsection (c) of this section, the Secretary shall exempt such segment from one or both of such subsections. Before making such determination, the Secretary shall consider any possible alternative route that serves the area in which such segment is located.

(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources as-

signed, and the projected completion date, for any such determination.

(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a revision of such rules.

ACCESS TO THE INTERSTATE SYSTEM

SEC. 412. (a) No State may enact or enforce any law denying reasonable access to commercial motor vehicles subject to this title between (1) the Interstate and Defense Highway System (other than any segment thereof which is exempted under section 411(i) or 416(e) of this title) and any other qualifying Federal-aid Primary System highways, as designated by the Secretary, and (2) terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers and for any truck tractor-semitrailer combination in which the semitrailer has a length not to exceed 28½ feet and which generally operates as part of a vehicle combination described in section 411(c) of this Act.

(b) Nothing in this section shall be construed as preventing any State or local government from imposing any reasonable restriction, based on safety considerations, on any truck tractor-semitrailer combination in which the semitrailer has a length not to exceed 28½ feet and which generally operates as part of ε vehicle combination described in section 411(c) of this Act.

ENFORCEMENT

SEC. 413. On the request of the Secretary, the Attorney General of the United States, is authorized and directed to institute any civil action for injunctive relief as may be appropriate to assure compliance with the provisions of this title. Such action may be instituted in any district court of the United States in any State where such relief is required to assure compliance with the terms of this title. In any action under this section, the court shall, upon a proper showing, issue a temporary restraining order or preliminary or permanent injunction. In any such action, the court may also issue a mandatory injunction commanding any State or person to comply with any applicable provision of this title, or any rule issued under authority of this title.

SPLASH AND SPRAY SUPPRESSANT DEVICES

SEC. 414. (a) The Congress declares that visibility on wet roadways on the Interstate System should be improved by reducing, by a practicable and reliable means, splash and spray from truck tractors, semitrailers, and trailers.

(b) The Secretary shall by regulation—

(1) within one year after the date of the enactment of this title, establish minimum standards with respect to the per-

formance and installation of splash and spray suppression devices for use on truck tractors, semitrailers, or trailers;

(2) within one year after the date on which the standards are established under paragraph (1) of this subsection, require that all new truck tractors, semitrailers, and trailers operated on the Interstate System be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection; and

(3) within four years after the date on which the standards are established under paragraph (1) of this subsection, require that all truck trailers, semitrailers, and trailers operated on the Interstate System be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection.

(c) For the purposes of this section, the term—

(1) "truck tractor" means the noncargo carrying power unit that operates in combination with a semitrailer or trailer(s);

(2) "semitrailer" and "trailer" means any semitrailer or trailer, respectively, with respect to which section 422 of this title applies; and

(3) "Interstate System" has the same meaning provided in section 101 of title 23, United States Code.

REPORT REGARDING LONGER COMBINATION COMMERCIAL MOTOR VEHICLES

SEC. 415. (a) Within 18 months after the date of enactment of this title, the Secretary, after consultation with the transportation officials and Governors of the several States and after an opportunity for public comment, shall submit to Congress a detailed report on the potential benefits and costs if any, to shippers, receivers, operators of commercial motor vehicles, and the general public, that reasonably may be anticipated from the establishment of a National intercity truck route network for the operation of a special class of longer combination commercial motor vehicles.

(b) For the purposes of this section, the term—

(1) "longer combination commercial motor vehicles" means multiple-trailer combinations consisting of (A) truck tractor-semitrailer-full trailer, and (B) truck tractor-semitrailer-full trailer-full trailer combinations with an overall length not in excess of one hundred and ten feet; and

(2) "national intercity truck route network" means a network consisting of a number of controlled-access, interconnecting segments of the National System of Interstate and Defense Highways and other highways of comparable design and traffic capacity including, but not limited to, all such highways where the operation of longer combination commercial motor vehicles is authorized on the date of enactment of this section.

(c) The detailed report mandated by this section shall include, but need not be limited to, the following—

(1) a specific plan for the establishment of a national intercity truck route network, including the designation of those specific highway segments which would be required to connect the major distribution centers and markets for long-haul inter-

city freight service, except that the Secretary shall not include in the plan any highway segment which, because of design limitations or other factors, cannot accommodate the safe operation of longer combination commercial motor vehicles;

(2) an analysis of the intercity motor freight volume that reasonably can be anticipated to be transported by longer combination commercial motor vehicles over the national intercity truck route network if such network is established by Congress;

(3) an analysis of the fuel savings that reasonably can be anticipated in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(4) an analysis of the productivity gains that reasonably can be anticipated to be achieved in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(5) an analysis of the fuel conservation and productivity gains historically achieved by operators of longer combination commercial motor vehicle; and

(6) an analysis of the safety record of longer combination commercial motor vehicle operations that have been conducted prior to the date of enactment of this section.

(d) In making the findings and determinations required by subsection (c) of this section, and in making the detailed report to Congress required by this section, the Secretary shall assume that the longer combination commercial motor vehicles operating on the national intercity truck route network, if and when established by Congress, would be subject to the single- and tandem-axle weight limits imposed by section 127 of title 23, United States Code. The Secretary shall further assume that the overall gross weight of such vehicles on a group of two or more consecutive axles shall be limited by the formula set forth in such section, and only by such formula.

(e) In making the detailed report to Congress required by this section, the Secretary shall assume that longer combination commercial motor vehicles operating on the national intercity truck route network will have reasonable access to terminals, combination breakup areas, and food and fuel facilities consistent with safe operations of such vehicles.

COMMERCIAL MOTOR VEHICLE WIDTH LIMITATION

SEC. 416. (a) Except as provided in subsection (e) of this section, no State, other than the State of Hawaii, shall establish, maintain, or enforce any regulation of commerce which imposes a vehicle width limitation of more or less than 102 inches on any segment of the National System of Interstate and Defense Highways (other than a segment exempted under subsection (e) of this section), or any other qualifying Federal-aid highway as designated by the Secretary of Transportation, with traffic lanes designed to be a width of twelve feet or more, or any other qualifying Federal-aid Primary System highway designated by the Secretary if the Secretary determines that such designation is consistent with highway safety; except that a State may continue to enforce any regulation of com-

merce in effect on April 6, 1983, with respect to motor vehicles that exceed 102 inches in width until the date on which such State adopts a regulation of commerce which complies with the provisions of this subsection. After the date of the enactment of this sentence, any Federal-aid highway (other than any Interstate highway) which was not designated under this subsection on June 5, 1984, may be designated under this subsection only with the agreement of the Governor of the State in which the highway is located.

(b) Notwithstanding the provisions of this section or any other provision of law, certain safety devices which the Secretary of Transportation determines are necessary for safe and efficient operation of motor vehicles shall not be included in the calculation of width.

(c) Notwithstanding the provisions of this section or any other provision of law, a State may grant special use permits to motor vehicles that exceed 102 inches in width.

(d) Notwithstanding any other provision of law and in accordance with the provisions of this section, a State shall have authority to enforce a commercial vehicle width limitation of 102 inches on any segment of the National System of Interstate and Defense Highways (other than a segment exempted under subsection (e) of this section), or any other qualifying Federal-aid highway as designated by the Secretary of Transportation.

(e)(1) If the Governor of a State, after making the consultations specified in paragraph (2) of this subsection, determines that any specific segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Governor may notify the Secretary of such determination and request that the Secretary exempt such segment from such subsection for the purpose of allowing the State to impose a width limitation of less than 102 inches for vehicles (other than buses) on such segment.

(2) Before making such notification, the Governor shall consult with units of local government within the State in which the specific segment of such system is located, as well as the Governor of any State adjacent to that State that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that—

(A) can safely accommodate motor vehicles having the width set forth in subsection (a) of this section;

(B) serves the area in which such segment is located.

(3) The Governor shall transmit with such notification specific evidence of safety problems that supports such determination and the results of consultation regarding any alternative route under paragraph (2) of this subsection.

(4)(A) If the Secretary determines, upon request by a Governor under paragraph (1) of this subsection or on the Secretary's own initiative, that any segment of the National System of Interstate and Defense Highways is not capable of safely accommodating motor vehicles having the width set forth in subsection (a) of this section, the Secretary shall exempt such segment from such subsection for the purpose of allowing the State to impose a width limitation of less than 102 inches for vehicles (other than buses) on such

segment. Before making such determination, the Secretary shall consider any possible alternative route that serves the area in which such segment is located.

(B) The Secretary shall make such determination within a period of 120 days after the date of receipt of notification from a Governor under paragraph (1) of this subsection or the date on which the Secretary initiates action under this paragraph, as the case may be, with respect to such segment. If the Secretary determines that such determination will not be made within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such determination.

(C) The Secretary shall make such determination only after affording interested parties notice and the opportunity for comment. Any exemption granted by the Secretary under this paragraph before the date on which final rules are issued under subsection (a) of this section shall be included as part of such final rules. Any such exemption granted on or after such date shall be published as a revision of such rules.

(f) The provisions of this section shall take effect on April 6, 1983.

§ 30 OF THE MOTOR CARRIER ACT OF 1980

MINIMUM FINANCIAL RESPONSIBLITY FOR MOTOR CARRIERS

SEC. 30. (a)(1) The Secretary of Transportation shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property for hire by motor vehicle in the United States from a place in one State to a place in another State, from a place in a State to another place in such State through a place outside of such State, or between a place in a State and a place outside the United States.

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle shall not be less than $750,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the three and one-half year period beginning on the effective date of the regulations issued under such paragraph or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(3) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of property for hire by motor vehicle from a place in a State to a place in another State or from a place in a State to another place in such State through another State, the levels of financial responsibility for such class of transportation shall be the $750,000 amount set forth in paragraph (2) of this subsection, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of such paragraph, the Secretary may only make reductions in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

(b)(1) The Secretary shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of hazardous materials (as defined by the Secretary), oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency), or hazardous wastes (as defined by the Administrator of the Environmental Protection Agency) by motor vehicle in interstate or intrastate commerce.

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce—

(A) hazardous substances (as defined by the Administrator of the Environmental Protection Agency) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons,

(B) in bulk class A explosives, poison gas, liquefied gas, or compressed gas, or

(C) large quantities of radioactive materials,

shall not be less than $5,000,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $1,000,000) for any class of vehicles or operations for the three and one-half year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(3) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce any material, oil substance, or waste not subject to the provisions of paragraph (2) of this subsection shall not be less than $1,000,000, except that (A) the Secretary, by regulation, may reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service, (B) in the case of any class of vehicles transporting any such material, oil, substance, or waste in intrastate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the Secretary finds that such reduction will not adversely affect public safety, and (C) in the case of any farm vehicle transporting any such material or substance in interstate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the Secretary finds that such reduction will not adversely affect public safety.

(4) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of hazardous materials, oil, hazardous substances, or hazardous wastes by motor vehicle in interstate or intrastate commerce, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in paragraph (2) of this subsection or the $1,000,000 amount set forth in paragraph (3) of this subsection, as the case may be, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of paragraph (2) or (3)(A) of this subsection, the Secretary may only make reductions in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

(c)(1) Subject to paragraph (2) of this subsection, financial responsibility may be established under this section by any one or any combination of the following methods acceptable to the Secretary: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section.

(2)(A) Any person domiciled in any contiguous foreign country who provides transportation by motor vehicle to which any of the minimal levels of financial responsibility established under this section apply shall have evidence of such financial responsibility in such motor vehicle at any time such person is providing such transportation.

(B) The Secretary of Transportation and the Secretary of the Treasury shall deny entry into United States of any motor vehicle in which there is not evidence of financial responsibility required to be in such vehicle under subparagraph (A) of this paragraph.

(d)(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and opportunity for a hearing, to have knowingly violated this section or a regulation issued under this section shall be liable to the United States for civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(e) Not later than one year after the date of enactment of this Act, the Secretary shall report to Congress upon the regulations issued under this section. The Secretary shall describe the various levels of financial responsibility mandated and the rationale for selecting the final limits. The Secretary shall also include an estimate of the impact of the regulations upon the safety of motor vehicle transportation, the economic condition of the motor carrier industry (including, but not limited to, small and minority motor carriers and independent owner-operators), and the ability of the insurance industry to provide the designated coverage. The Secretary shall make recommendations with respect to the need for further legislation related to levels of financial responsibility, includ-

ing to what extent, if any, minimum statutory levels should be modified.

(f) This section shall not apply to any motor vehicle having a gross vehicle weight rating of less than ten thousands pounds, if such vehicle is not used to transport any quantity of class A or B explosives, any quantity of poison gas, or a large quantity or radioactive materials in interstate or foreign commerce.

(g) For purposes of this section, the term—

(1) "farm vehicle" means any vehicle which (A) is designed or adapted and used exclusively for agricultural purposes, (B) is operated by a motor private carrier (as such term is defined under section 10102 of title 49, United States Code), and (C) is only incidentally operated on highways;

(2) "Interstate commerce" includes transportation between a place in a State and a place outside the United States, to the extent such transportation is in the United States;

(3) "Secretary" means the Secretary of Transportation; and

(4) "State" (including its use in the terms "interstate" and "intrastate") means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas.

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§ 18 OF THE BUS REGULATORY REFORM ACT OF 1982

FINANCIAL RESPONSIBILITY

SEC. 18. (a) The Secretary of Transportation shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability and property damage for the transportation of passengers for hire by motor vehicle in the United States from a place in a State to a place in another State, from a place in a State to another place in such State through a place outside of such State, and between a place in a State and a place outside of the United States.

(b) The minimal level of financial responsibility established by the Secretary under subsection (a) of this section—

(1) for any vehicle with a seating capacity of 16 passengers or more shall not be less than $5,000,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $2,500,000) for any class of such vehicles or operations for the 2-year period beginning on the effective date of the regulations issued under such subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service; and

(2) for any vehicle with a seating capacity of 15 passengers or less shall not be less than $1,500,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $750,000) for any class of such vehicles or operations for the 2-year period beginning on the effective date of the regulations issued under such subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(c)(1) If, at the end of the one-year period beginning on the effective date of this section, the Secretary has not established regulations to require minimal levels of financial responsibility as required by subsection (a) of this section for any class of transportation of passengers, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in subsection (b)(1) of this section in the case of motor vehicles with a seating capacity of 16 passengers or more and the $1,500,000 amount set forth in subsection (b)(2) of this section in the case of motor vehicles having a seating capacity of 15 passengers or less, until such time as the Secretary, by regulation, changes such amount under this section.

(2) Notwithstanding the provisions of subsection (b) of this section, the Secretary may only make reductions in the $5,000,000 and $1,500,000 amounts set forth in such subsection for the two-year

period beginning on the 366th day following the effective date of this section or any part of such period.

(d)(1) Subject to paragraph (2) of this subsection, financial responsibility may be established under this section by any one or combination of the following methods acceptable to the Secretary: evidence of insurance, including high self-retention, guarantee, or surety bond. Any bond filed shall be issued by a bonding company authorized to do business in the United States. The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section.

(2)(A) Any person domiciled in any contiguous foreign country who provides transportation by motor vehicle to which any of the minimal levels of financial responsibility established under this section apply shall have evidence of such financial responsibility in such motor vehicle at any time such person is providing such transportation.

(B) The Secretary of Transportation and the Secretary of the Treasury shall deny entry into the United States of any motor vehicle in which there is not evidence of financial responsibility required to be in such vehicle by subparagraph (A) of this paragraph.

(e)(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and opportunity for a hearing, to have knowingly violated this section or a regulation issued under this section shall be liable to the United States for a civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation commited and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(f) This section shall not apply—

(1) to a motor vehicle transporting only school children and teachers to or from school;

(2) to a motor vehicle providing taxicab service and having a seating capacity of less than 7 passengers and not operated on a regular route or between specified points; and

(3) to a motor vehicle carrying less than 16 individuals in a single, daily round trip to commute to and from work.

(g) For purposes of this section, the term—

(1) "Secretary" means the Secretary of Transportation; and

(2) "State" means a State of the United States and the District of Columbia.

(h) Section 10927(a)(1) of title 49, United States Code, is amended by inserting immediately after "Motor Carrier Act of 1980" the following: ", in the case of a motor carrier of property, or section 18 of the Bus Regulatory Reform Act of 1982, in the case of a motor carrier of passengers".

URBAN MASS TRANSPORTATION ACT OF 1964

URBAN MASS TRANSPORTATION ACT OF 1964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Urban Mass Transportation Act of 1964".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds—

(1) that the predominant part of the Nation's population is located in its rapidly expanding metropolitan and other urban areas, which generally cross the boundary lines of local jurisdictions and often extend into two or more States;

(2) that the welfare and vitality of urban areas, the satisfactory movement of people and goods within such areas, and the effectiveness of housing, urban renewal, highway, and other federally aided programs are being jeopardized by the deterioration or inadequate provision of urban transportation facilities and services, the intensification of traffic congestion, and the lack of coordinated transportation and other development planning on a comprehensive and continuing basis; and

(3) that Federal financial assistance for the development of efficient and coordinated mass transportation systems is essential to the solution of these urban problems.

(b) The purposes of this Act are—

(1) to assist in the development of improved mass transportation facilities, equipment, techniques, and methods, with the cooperation of mass transportation companies both public and private;

(2) to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development, with the cooperation of mass transportation companies both public and private; and

(3) to provide assistance to State and local governments and their instrumentalities in financing such systems, to be operated by public or private mass transportation companies as determined by local needs.

FEDERAL FINANCIAL ASSISTANCE

SEC. 3. (a)(1) The Secretary is authorized, in accordance with the provisions of this Act and on such terms and conditions as the Secretary may prescribe, to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing—

(A) the construction of new fixed guideway systems and extensions to existing fixed guideway systems, including the acquisition of real property, the initial acquisition of rolling stock

needed for such systems, the detailed alternative analyses relating to the development of such systems, and the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in advanced stages of any such detailed alternatives analyses or preliminary engineering;

(B) the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service and the coordination of such service with highway and other transportation. Eligible facilities and equipment may include personal property such as buses and other rolling stock, and rail and bus facilities, and real property and improvements (but not public highways other than fixed guideway facilities) needed for an efficient and coordinated public transportation system. No project for the replacement or purchase of buses and related equipment or the construction of bus-related facilities shall be approved unless the Secretary finds that such project cannot be reasonably funded out of the apportionments under section 5(a)(4) of this Act;

(C) the introduction into public transportation service of new technology in the form of innovative and improved products;

(D) transportation projects which enhance the effectiveness of any mass transportation project and are physically or functionally related to such mass transportation project or which create new or enhanced coordination between public transportation and other forms of transportation, either of which enhance urban economic development or incorporate private investment including commercial and residential development. The term "eligible costs" includes property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and the acquisition, construction, and improvement of facilities and equipment for intermodal transfer facilities and transit malls, but does not include the construction of commercial revenue-producing facilities, whether publicly or privately owned, or of those portions of public facilities not related to mass transportation. The Secretary shall require that all grants and loans under this paragraph be subject to such terms, conditions, requirements, and provisions as the Secretary determines necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section. The Secretary shall require in all grants and loans under this subparagraph that any person or entity that contracts to occupy space in facilities funded under this subparagraph shall pay a fair share of the cost of such facilities, through rental payments and other means;

(E) the modification of equipment and fixed facilities (other than stations) which the Secretary determines to be necessary to avoid any adverse effects resulting from the implementation of the Northeast Corridor project pursuant to title VII of Public Law 94-210. Notwithstanding the Federal share provisions of section 4(a) of this Act, the Secretary is authorized to

make grants for 100 per centum of the net project cost of projects assisted under this subparagraph.

(2)(A) No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

(i) the legal, financial, and technical capacity to carry out the proposed project;

(ii) satisfactory continuing control, through operation or lease, or otherwise, over the use of the facilities and the equipment; and

(iii) sufficient capability to maintain the facilities and equipment.

(B) The Secretary may make loans for real property acquisition pursuant to subsection (b) upon a determination, which shall be in lieu of the determination required by subparagraph (A), that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period.

(C) No grant or loan funds shall be used for payment of ordinary governmental or nonproject operating expenses, nor shall any grant or loan funds be used to support procurements utilizing exclusionary or discriminatory specifications.

(3) The Secretary shall not approve a grant or loan for a project under this section unless the Secretary finds that such project is part of an approved program of projects required by section 8 of this Act.

(4) The Secretary is authorized to announce an intention to obligate for a project under this section through the issuance of a letter of intent to the applicant. At least thirty days prior to the issuance of a letter of intent under this paragraph, the Secretary shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, of the proposed issuance of such letter of intent. Such an action shall not be deemed an obligation as defined under section 1311 of the Act of August 26, 1954, as amended (31 U.S.C. 200), nor shall such a letter be deemed an administrative commitment. The letter shall be regarded as an intention to obligate from future available budget authority provided in an appropriation Act not to exceed an amount stipulated as the Secretary's financial participation in the defined project under this section. The amount stipulated in the letter, when issued for a fixed guideway project, shall be sufficient to complete an operable segment. No obligation or administrative commitment may be made pursuant to such a letter of intent except as funds are provided in appropriations Acts. The total estimated amount of future Federal obligations covered by all outstanding letters of intent shall not exceed the amount authorized to carry out section 3 of this Act, less an amount reasonably estimated by the Secretary to be necessary for grants under this section which are not covered by a letter of intent. The total amount covered by new letters issued shall not exceed any limitation that may be specified in an appropriations Act. Nothing in this paragraph shall affect the validity of letters of intent issued prior to the enactment of the Federal Public Transportation Act of 1978. Funding for

projects covered by letters of intent or letters of commitment issued, and full funding contracts executed, prior to the date of enactment of the Federal Public Transportation Act of 1982 should be funded under this section while not precluding the funding of a portion of such projects using section 9 capital funds unless such funding would impair the recipient's ability to fund routine capital projects under such section. Notwithstanding the provisions of section 4(a), the Federal share of the total project cost of any project under this section covered by a full funding contract, letter of intent, or letter of commitment in effect on the date of enactment of the Federal Public Transportation Act of 1982, or those projects within the federally agreed upon scope for the Washington, District of Columbia, metropolitan area transit system (as of such date), shall not be altered.

(5) The Secretary shall take into account the adverse effect of decreased commuter rail service in considering applications for assistance under this section for the acquisition of rail lines and all related facilities used in providing commuter rail service which are owned by a railroad subject to reorganization under title 11, United States Code.

(6) In making grants under this section in fiscal year 1983, the Secretary shall, to the extent practicable, emphasize projects that are labor intensive and that can begin construction or manufacturing within the shortest possible time.

(b) The Secretary is authorized to make loans under this section to States or local public bodies and agencies thereof to finance the acquisition of real property and interests in real property for use as rights-of-way, station sites, and related purposes, on urban mass transportation systems, including reconstruction, renovation, and the net cost of property management and relocation payments made pursuant to section 7. Each loan agreement under this subsection shall provide for actual construction of urban mass transportation facilities on acquired real property within a period not exceeding ten years following the fiscal year in which the agreement is made. Each agreement shall provide that in the event acquired real property or interests in real property are not to be used for the purposes for which acquired, an appraisal of current value will be made at the time of that determination, which shall not be later than ten years following the fiscal year in which the agreement is made. Two-thirds of the increase in value, if any, over the original cost of the real property shall be paid to the Secretary for credit to miscellaneous receipts of the Treasury. Repayments of amounts loaned shall be credited to miscellaneous receipts of the Treasury. A loan made under this subsection shall be repayable within ten years from the date of the loan agreement or on the date a grant agreement for actual construction of facilities on the acquired real property is made, whichever date is earlier. A grant agreement for construction of facilities under this Act may provide for forgiveness of the repayment of the principal and accrued interest on the loan then outstanding in lieu of a cash grant in the amount thus forgiven, which for all purposes shall be considered a part of the grant and of the Federal portion of the cost of the project. An applicant for assistance under this subsection shall furnish a copy of its application to the comprehensive planning

agency of the community affected concurrently with submission to the Secretary. If within a period of thirty days thereafter (or, in a case where the comprehensive planning agency of the community (during such thirty-day period) requests more time, within such longer period as the Secretary may determine) the comprehensive planning agency of the community affected submits comments to the Secretary, the Secretary must consider the comments before taking final action on the application.

(c) No loans shall be made under this section for any project for which a grant is made under this section, except—

(1) loans may be made for projects as to which grants are made for relocation payments; and

(2) project grants may be made even though the real property involved in the project has been or will be acquired as a result of a loan under subsection (b).

Interest on loans made under this section shall be at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate to the judgment of the Secretary of Transportation to cover administrative costs and probable losses under the program. No loans shall be made, including renewals or extensions thereof, and no securities or obligations shall be purchased, which have maturity dates in excess of forty years.

(d) Any application for a grant or loan under this Act to finance the acquisition, construction, reconstruction, or improvement of facilities or equipment which will substantially affect a community or its mass transportation service shall include a certification that the applicant—

(1) has afforded an adequate opportunity for public hearings pursuant to adequate prior notice, and has held such hearings unless no one with a significant economic, social, or environmental interest in the matter requests a hearing;

(2) has considered the economic and social effects of the project and its impact on the environment; and

(3) has found that the project is consistent with official plans for the comprehensive development of the urban area.

Notice of any hearings under this subsection shall include a concise statement of the proposed project, and shall be published in a newspaper of general circulation in the geographic area to be served. If hearings have been held, a copy of the transcript of the hearings shall be submitted with the application.

(e) No financial assistance shall be provided under this Act to any State or local public body or agency thereof for the purpose, directly or indirectly, of acquiring any interest in, or purchasing any facilities or other property of, a private mass transportation company, or for the purpose of constructing, improving, or reconstructing any facilities or other property acquired (after the date of the enactment of this Act) from any such company, or for the purpose of providing by contract or otherwise for the operation of mass transportation facilities or equipment in competition with, or supplementary to, the service provided by an existing mass transporta-

tion company, unless (1) the Secretary finds that such assistance is essential to the program of projects required by section 8 of this Act, (2) the Secretary finds that such program, to the maximum extent feasible, provides for the participation of private mass transportation companies, (3) just and adequate compensation will be paid to such companies for acquisition of their franchises or property to the extent required by applicable State or local laws, and (4) the Secretary of Labor certifies that such assistance complies with the requirements of section 13(c) of this Act.

(f) No Federal financial assistance under this Act may be provided for the purchase or operation of buses unless the applicant or any public body receiving such assistance for the purchase or operation of buses, or any publicly owned operator receiving such assistance, shall as a condition of such assistance enter into an agreement with the Secretary that such public body, or any operator of mass transportation for such public body, will not engage in charter bus operations outside the urban area within which it provides regularly scheduled mass transportation service, except as provided in the agreement authorized by this subsection. Such agreement shall provide for fair and equitable arrangements, appropriate in the judgment of the Secretary, to assure that the financial assistance granted under this Act will not enable public bodies and publicly and privately owned operators for public bodies to foreclose private operators from the intercity charter bus industry where such private operators are willing and able to provide such service. In addition to any other remedies specified in the agreement, the Secretary shall have the authority to bar a grantee or operator from the receipt of further financial assistance for mass transportation facilities and equipment where he determines that there has been a continuing pattern of violations of the terms of agreement. Upon receiving a complaint regarding an alleged violation, the Secretary shall investigate and shall determine whether a violation has occurred. Upon determination that a violation has occurred, he shall take appropriate action to correct the violation under the terms and conditions of the agreement.

(g) No Federal financial assistance shall be provided under this Act for the construction or operation of facilities and equipment for use in providing public mass transportation service to any applicant for such assistance unless such applicant and the Secretary shall have first entered into an agreement that such applicant will not engage in schoolbus operations, exclusively for the transportation of students and school personnel, in competition with private schoolbus operators. This subsection shall not apply to an applicant with respect to operation of a schoolbus program if the applicant operates a school system in the area to be served and operates a separate and exclusive schoolbus program for this school system. This subsection shall not apply unless private schoolbus operators are able to provide adequate transportation, at reasonable rates, and in conformance with applicable safety standards; and this subsection shall not apply with respect to any State or local public body or agency thereof if it (or a direct predecessor in interest from which it acquired the function of so transporting schoolchildren and personnel along with facilities to be used therefor) was so engaged in schoolbus operations any time during the twelve-month

period immediately prior to the date of the enactment of this subsection. A violation of an agreement under this subsection shall bar such applicant from receiving any other Federal financial assistance under this Act.

(h) Notwithstanding any other provision of this Act, the Secretary, upon application by a local public body, may approve a project which utilizes funds available under sections 3 and 5 of this Act, but in any such project, none of the funds available under section 3 may be expended in connection with the acquisition of buses, bus equipment, or bus related facilities unless the combined project includes new buses, bus equipment, or bus related facilities the cost of which is at least equal to the total amount that reasonably could have been provided for such purposes with funds available under section 5(a)(4).

NET PROJECT COST, FEDERAL SHARE, AND AUTHORIZATION

SEC. 4. (a) The Secretary, on the basis of engineering studies, studies of economic feasibility, and data showing the nature and extent of expected utilization of the facilities and equipment, shall estimate what portion of the cost of a project to be assisted under section 3 cannot be reasonably financed from revenues—which portion shall hereinafter be called "net project cost". The Federal grant for any such project to be assisted under section 3 shall be in an amount equal to 75 per centum of the net project cost. The remainder of the net project cost shall be provided, in cash, from sources other than Federal funds. Such remainder may be provided in whole or in part from other than public sources and any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital. No refund or reduction of the remainder of the net project cost shall be made at any time unless there is at the same time a refund of a proportional amount of the Federal grant.

(b) To finance grants under this Act there is hereby authorized to be appropriated at any time after its enactment not to exceed $75,000,000 for fiscal year 1965; $150,000,000 for fiscal year 1966; $150,000,000 for each of the fiscal years 1967, 1968, and 1969; $190,000,000 for fiscal year 1970; and $300,000,000 for fiscal year 1971. Any amount so appropriated shall remain available until expended; and any amount authorized but not appropriated for any fiscal year may be appropriated for any succeeding fiscal year. The Secretary is authorized, notwithstanding the provisions of section 3648 of the Revised Statutes, as amended, to make advance or progress payments on account of any grant or contract made pursuant to this Act.

(c)(1) To finance grants and loans under sections 3, 7(b), and 9 of this Act, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $10,925,000,000, less amounts appropriated pursuant to section 12(d) of this Act as it read prior to enactment of the Federal Public Transportation Act of 1978 and the amount appropriated to the Urban Mass Transportation Fund by Public Law 91-168. This amount (which shall be in addition to

any amounts available to finance such activities under subsection (b) of this section) shall become available for obligation upon the date of enactment of this subsection and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection not to exceed $80,000,000 prior to July 1, 1971, which amount may be increased to not to exceed an aggregate of $310,000,000 prior to July 1, 1972, not to exceed an aggregate of $710,000,000 prior to July 1, 1973, not to exceed an aggregate of $1,260,000,000 prior to July 1, 1974, not to exceed an aggregate of $1,860,000,000 prior to July 1, 1975, and not to exceed an aggregate of $6,100,000,000 thereafter. The total amounts appropriated under this subsection and section 12(d) of this Act shall not exceed the limitations in the foregoing schedule. Sums so appropriated shall remain available until expended.

(2) Notwithstanding paragraph (1) of this subsection or any other provision of this Act, the unobligated balance of contract authority established pursuant to paragraph (1) shall not be available for administrative commitment after September 30, 1978, and shall lapse on September 30, 1980.

(3)(A) To finance additional grants and loans under section 3 of this Act and to finance grants and contracts under subsection (i) of this section and section 8 of this Act, there are authorized to be appropriated not to exceed $1,375,000,000 for the fiscal year ending September 30, 1979; $1,410,000,000 for the year ending September 30, 1980; $1,515,000,000 for the year ending September 30, 1981; and $1,515,000,000 for the fiscal year ending September 30, 1982. In any fiscal year not more than five and one-half per centum of such fiscal years appropriation pursuant to this subparagraph shall be used for the purposes of subsection (i) of this section and section 8 of this Act. Appropriations pursuant to the authority of this paragraph and subsection (g) of this section may be in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation and shall remain available for three years following the close of the fiscal year for which such appropriation is made.

(B) In each fiscal year, not more than $200,000,000 of the sums appropriated pursuant to subparagraph (A) shall be available for grants and loans approved under section 3(a)(1)(D) of this Act.

(C) Not more than $45,000,000 of the total sums appropriated pursuant to subparagraph (A) shall be available for grants approved under section 3(a)(1)(E) of this Act.

(D) In each fiscal year, at least $350,000,000 of the sums appropriated pursuant to subparagraph (A) shall be available for grants for the reconstruction and improvement of existing public mass transportation systems.

(d) There are authorized to be appropriated $10,000,000 in each fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, $5,000,000 for the fiscal year ending September 30, 1984, and $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986, to carry out the functions of section 11(b) of this Act. Sums appropriated pursuant to this subsection shall remain available until expended.

(e) To finance grants under section 18 of this Act, there are authorized to be appropriated not to exceed $90,000,000 for the fiscal year ending September 30, 1979; $100,000,000 for the fiscal year ending September 30, 1980; $110,000,000 for the fiscal year ending September 30, 1981; $75,000,000 for the fiscal year ending September 30, 1982. Sums appropriated pursuant to this subsection shall remain available until expended.

(f) There are authorized to be appropriated to carry out the functions of this Act, other than sections 3, 5, 8, 11(b), 16(b), and 18, not to exceed $90,000,000 for the fiscal year ending September 30, 1979; $95,000,000 for the fiscal year ending September 30, 1980; $100,000,000 for the fiscal year ending September 30, 1981; and $100,000,000 for the fiscal year ending September 30, 1982. Sums appropriated pursuant to this subsection for financing projects funded under section 6 of this Act shall remain available until expended.

(g) There are authorized to be appropriated not to exceed $365,000,000 for the fiscal year ending September 30, 1983, $380,000,000 for the fiscal year ending September 30, 1984, $390,000,000 for the fiscal year ending September 30, 1985, and $400,000,000 for the fiscal year ending September 30, 1986, to carry out public transportation projects substituted for Interstate segments withdrawn under section 103(e)(4) of title 23, United States Code, except that there are authorized to be appropriated not to exceed $600,000,000 for such projects for the fiscal year ending September 30, 1982.

(h)(1) On or before the twentieth day of each calendar quarter the Secretary shall submit to Congress a report on (1) obligations, commitments, and reservations by State, designated recipient, and applicant, made under authority of this Act; (2) the balance as of the last day of each quarter of the unobligated, uncommitted, and unreserved apportionments made under this Act; (3) the balance of unobligated, uncommitted, and unreserved sums available for expenditure at the discretion of the Secretary under this Act as of the end of such quarter; (4) a listing of letters of intent issued; and (5) a status report on all outstanding letters of intent.

(2) On or before October 1, 1979, the Secretary shall report to Congress on authorization requests for sections 3 and 5 of this Act for fiscal years 1981 through 1984. On or before October 1, 1981, the Secretary shall report to Congress on authorization requests for sections 3 and 5 of this Act for fiscal years 1983 through 1986. Such authorization requests shall contain a description and analysis of the methods used and the assumptions relied upon by the Secretary.

(i) The Secretary is authorized to make grants to States and local public bodies, using sums available pursuant to section 4(c)(3)(A) of this section, for projects for the deployment of innovative techniques and methods in the management and operation of public transportation services. In each fiscal year grants for any one State shall not exceed twelve and one-half per centum of the funds available for the purposes of this subsection.

URBAN MASS TRANSIT PROGRAM

SEC. 5. (a)(1)(A) To make grants for construction or operating assistance purposes under this subsection, the Secretary shall apportion for expenditure in fiscal years 1975 through 1980 the sums authorized by subsection (c)(1) of this section and appropriated pursuant to subsection (c)(2) of this section. For subsequent fiscal years, the Secretary shall apportion the sums appropriated pursuant to subparagraph (B) of this paragraph. Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

(i) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of Census bears to the total population of all the urbanized areas in all the States as shown by the latest available Federal census; and

(ii) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this section, the term "density" means the number of inhabitants per square mile.

(B) There are authorized to be appropriated for the purposes of this paragraph, $900,000,000 for the fiscal year ending September 30, 1981, and $850,000,000 for the fiscal year ending September 30, 1982.

(2)(A) To make grants for construction or operating assistance purposes under this subsection, the Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph.

(i) Eighty-five per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of 750,000 or more, and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States shown by the latest available Federal census; and

(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term "density" means the number of inhabitants per square mile.

(ii) Fifteen per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of less than 750,000 and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or

part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term "density" means the number of inhabitants per square mile.

(B) There are authorized to be appropriated for the purposes of this paragraph $250,000,000 for the fiscal year ending September 30, 1979; $250,000,000 for the fiscal year ending September 30, 1980; $250,000,000 for the fiscal year ending September 30, 1981; and $165,000,000 for the fiscal year ending September 30, 1982.

(3)(A) To make grants for construction and operating assistance projects under this subsection involving commuter rail or other fixed guideway systems, the Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph. Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

(i) two-thirds of the total amount to be apportioned as follows: one-half multiplied by a ratio which the number of commuter rail train miles operated within or serving the urbanized area in the prior fiscal year bears to the total number of commuter rail train miles operated in or serving all urbanized areas in the prior fiscal year, and one-half multiplied by a ratio which the number of commuter rail route miles operated within or serving the urbanized area in the prior fiscal year bears to the total number of commuter rail route miles operated in or serving all urbanized areas in the prior fiscal year. No single eligible State's portion of an urbanized area shall receive in any fiscal year less than one-half per centum or more than thirty per centum of the sums appropriated for such fiscal year pursuant to this clause;

(ii) one-third of the total amount to be apportioned multiplied by the ratio that the number of fixed guideway system route miles (excluding commuter rail route miles) in the urbanized area in the prior fiscal years bears to the total number of such fixed guideway system route miles (excluding commuter rail route miles) in all urbanized areas in the prior fiscal year. For the purposes of the calculation to be made under this subparagraph, no single State's portion of an urbanized area shall receive more than 30 per centum of the sums appropriated for such fiscal year pursuant to this clause.

Sums apportioned under this paragraph shall be available for expenditure only for construction or operating assistance projects involving commuter rail or other fixed guideway systems, except that such sums may also be available for expenditure for bus and bus related facilities if there are no commuter rail or fixed guideway systems in operation and attributable to the urbanized area in the fiscal year of apportionment.

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(B) There are authorized to be appropriated for the purposes of this paragraph, $115,000,000 for the fiscal year ending September 30, 1979; $130,000,000 for the fiscal year ending September 30, 1980; $145,000,000 for the fiscal year ending September 30, 1981; and $90,000,000 for the fiscal year ending September 30, 1982.

(4)(A) To make grants under this subsection for the purchase of buses and related equipment, or the construction of bus related facilities, the Secretary shall apportion in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph. In fiscal years 1979 and 1980, the apportionment shall be made in accordance with the population density formula set out in subsection (a)(1)(A) of this section. Sums apportioned under this paragraph shall be available only for projects for the purchase of buses and related equipment, and the construction of bus related facilities, except that projects assisted pursuant to section 3(h) of this Act may utilize funds apportioned under this section for any eligible construction project.

(B) There are authorized to be appropriated for the purposes of this paragraph $300,000,000 for the fiscal year ending September 30, 1979; $300,000,000 for the fiscal year ending September 30, 1980; $370,000,000 for the fiscal year ending September 30, 1981; and $375,000,000 for the fiscal year ending September 30, 1982.

(b)(1) The Governor, responsible local officials, and publicly owned operators of mass transportation services, in accordance with the planning process required under section 8 of this Act, with the concurrence of the Secretary, shall designate a recipient or recipients to receive and dispense the funds apportioned under subsection (a) that are attributable to urbanized areas of two hundred thousand or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. The term "designated recipient" as used in this section shall refer to the recipient selected according to the procedures required by this paragraph.

(2) Sums apportioned under subsection (a) not made available for expenditure by designated recipients in accordance with the terms of pargraph (1) of this subsection shall be made available to the Governor for expenditures in urbanized areas or parts thereof in accordance with the planning process required under section 8 of this Act and shall be fairly and equitably distributed. The Governor shall submit annually a report to the Secretary concerning the allocation of funds made available under this paragraph.

(c)(1) To finance grants under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contracts, agreements, or otherwise in an aggregate amount not to exceed $3,975,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $300,000,000 prior to the close of fiscal year 1975; not to exceed $500,000,000 prior to the close of fiscal year 1976; not to exceed $650,000,000 prior to the close of fiscal year 1977; not to exceed $775,000,000 prior to the close of fiscal year 1978; not to exceed $850,000,000 prior to the close of fiscal year

1979; and not to exceed $900,000,000 prior to the close of fiscal year 1980. Sums so appropriated shall remain available until expended.

(2) In addition to sums authorized in paragraph (1) of this subsection, there is authorized to be appropriated for the fiscal year ending September 30, 1980, the additional amount of $125,000,000. This amount shall be available for apportionment pursuant to subsection (a)(1) of this section.

(3) Appropriation pursuant to this section shall be available until expended.

(4) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year, except that any funds authorized by section 5(a) (3) and (4) which are so reapportioned shall remain subject to the limitations applicable to the original apportionment of such funds.

(5) Apportionments under this section for fiscal year 1975 shall be deemed to have lapsed on September 30, 1977, and apportionments under this section for fiscal year 1976 shall be deemed to have lapsed on September 30, 1978.

(d)(1) The Secretary may approve as a project under this section, on such terms and conditions as he may prescribe, (A) the acquisition, construction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service, and (B) the payment of operating expenses to improve or to continue such service by operation, lease, contract, or otherwise.

(2) The Secretary shall issue such regulations as he deems necessary to administer this subsection and subsection (e), including regulations regarding maintenance of effort by States, local governments, and local public bodies, the appropriate definition of operating expenses, and requirements for improving the efficiency of transit services.

(e) The Federal grant for any construction project under this section shall not exceed 80 per centum of the cost of the construction project, as determined under section 4(a) of this Act. The Federal grant for any project for the payment of subsidies for operating expenses shall not exceed 50 per centum of the cost of such operating expense project. The remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

(f) Federal funds available for expenditure for mass transportation projects under this section and apportioned for fiscal years ending prior to October 1, 1981, shall be supplementary to and not in substitution for the average amount of State and local government funds and other transit revenues such as advertising concessions, and property leases, excluding reimbursement payments for the transportation of schoolchildren, expended on the operation of mass transporation service in the area involved for the two fiscal years preceding the fiscal year for which the funds are made avail-

able: *Provided, however,* That if such State and local government funds or other transit revenues are reduced, there shall be no loss of Federal assistance under this section if such reduction is offset by an increase in operating revenues through changes in fare structure. Nothing in the preceding sentence shall be construed as preventing State or local tax revenues which are used for the operation of mass transportation service in the area involved from being credited (to the extent necessary) toward the non-Federal share of the cost of the project. Where the Secretary finds that a recipient has reduced operating costs without reducing service levels the recipient shall be entitled to make a proportionate reduction in the amount of transit revenues required to be expended under this subsection.

(g) The Secretary shall not approve a grant or loan for a project under this section unless he finds that such project is part of the approved program of projects required by section 8 of this Act, and that the applicant or responsible agency has or will have—

(1) the legal, financial, and technical capacity to carry out the proposed project; and

(2) satisfactory continuing control, through operation or lease or otherwise, over the use of project facilities and equipment.

(h)(1) The Governor or the designated recipient of the urbanized area shall submit to the Secretary for his approach[1] such surveys, plans, specifications, and estimates for each proposed project as the Secretary may require. The Secretary shall act upon such surveys, plans, specifications, and his entering into a grant or contract agreement with respect to any such project shall be a contractual obligation of the Federal Government for the payment of its proportional contribution thereto.

(2) In approving any project under this section, the Secretary shall assure that possible adverse economic, social, and environmental effects relating to the proposed project have been fully considered in developing the project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe, and efficient transportation, public services, and conservation of environment and natural resources, and the costs of eliminating or minimizing any such adverse effects, including—

(A) air, noise, and water pollution;

(B) destruction or disruption of manmade and natural resources, esthetic values, community cohesion, and the availability of public facilities and services;

(C) adverse employment effects, and tax and property value losses;

(D) injurious displacement of people, businesses, and farms; and

(E) disruption of desirable community and regional growth.

(i) Upon submission for approval of a proposed project under this section, the Governor or the designated recipient of the urbanized area shall certify to the Secretary that he or it has conducted public hearings (or has afforded the opportunity for such hearings)

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[1] So in original. Probably should be "approval."

and that these hearings included (or were scheduled to include) consideration of the economic and social effects of such project, its impact on the environment, including requirements under the Clean Air Act, the Federal Water Pollution Control Act, and other applicable Federal environmental statutes, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community. Such certification shall be accompanied by (1) a report which indicates the consideration given to the economic, social, environmental, and other effects of the proposed project, including, for construction projects, the effects of its location or design, and the consideration given to the various alternatives which were raised during the hearing or which were otherwise considered, (2) upon the Secretary's request, a copy of the transcript of the hearings, and (3) assurances satisfactory to the Secretary that any public mass transportation system receiving financial assistance under such project will not change any fare and will not substantially change any service except (A) after having held public hearings or having afforded an adequate opportunity for such hearings, after adequate public notice, (B) after having given proper consideration to views and comments expressed in such hearings, and (C) after having given consideration to the effect on energy conservation, and the economic, environmental, and social impact of the change in such fare or such service.

(j)(1) The Secretary may discharge any of his responsibilities under this action with respect to a project under this section upon the request of any Governor or designated recipient of the urbanized area by accepting a certification by the Governor or his designee, or by the designated recipient of the urbanized area, if he finds that such project will be carried out in accordance with State laws, regulations, directives, and standards establishing requirements at least equivalent to those contained in, or issued pursuant to, this section.

(2) The Secretary shall make a final inspection or review of each such project upon its completion and shall require an adequate report of its estimated and actual cost, as well as such other information as he determines to be necessary.

(3) The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this subsection.

(4) Acceptance by the Secretary of a certification under this section may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do so.

(5) Nothing in this section shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C 4321 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), title VI of the Civil Rights Act of 1964 (42 U.S.C. 200(d) et seq.), title VIII of the Act of April 11, 1968 (Public Law 90–284, 42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(k)(1) As soon as practicable after the plans, specifications, and estimates for a specific project under this section have been approved, the Secretary shall enter into a formal project agreement with the Governor, his designee or the designated recipient of the

urbanized area. Such project agreement shall make provision for non-Federal funds required for the State's or designated recipient's pro rata share of the cost of the project.

(2) The Secretary may rely upon representations made by the applicant with respect to the arrangements or agreements made by the Governor or the designated recipient where a part of the project involved is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

(3) The Secretary is authorized, notwithstanding the provisions of section 3648 of the Revised Statutes, as amended, to make advance or progress payments on account of any grant or contract made pursuant to this section, on such terms and conditions as he may prescribe.

(l) The Secretary shall not approve any project under this section unless he finds that such project is needed to carry out a program, meeting criteria established by him, for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area, and is necessary for the sound, economic, and desirable development of such area, and that the applicant or responsible agency has the legal, financial, and technical capacity to carry out the proposed project. A project under this section may not be undertaken unless the responsible public officials of the urbanized area in which the project is located have been consulted and, except for projects solely to pay subsidies for operating expenses, their views considered with respect to the corridor, location, and design of the project.

(m) The Secretary shall not approve any project under this section unless the applicant agrees and gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours for transportation utilizing or involving the facilities and equipment of the project financed with assistance under this section will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation of such facilities and equipment is by the applicant or is by another entity under lease or otherwise.

(n)(1) The provisions of section 13(c) and section 3(e)(4) shall apply in carrying out mass transportation projects under this section.

(2) The provision of assistance under this section shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable.

(o) Notwithstanding any other provision of this section, any sums apportioned under this section before October 1, 1982, and available for expenditure in any urbanized area or part thereof on such date shall remain available for expenditure in such area or part in accordance with the provisions of this section until September 30, 1985. Any sums so apportioned remaining unobligated on October 1, 1985, shall be added to amounts available for apportionment under section 9 of this Act for the fiscal year ending September 30, 1986.

RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS

SEC. 6. The Secretary is authorized to undertake research, development, and demonstration projects in all phases of urban mass transportation (including the development, testing, and demonstration of new facilities, equipment, techniques, and methods) which he determines will assist in the reduction of urban transportation needs, the improvement of mass transportation service, or the contribution of such service toward meeting total urban transportation needs at minimum cost. He may undertake such projects independently or by grant or contract (including working agreements with other Federal departments and agencies). In carrying out the provisions of this section, the Secretary is authorized to request and receive such information or data as he deems appropriate from public or private sources.

(b) The Secretary shall, in consultation with the Secretary of Commerce, undertake a project to study and prepare a program of research, development, and demonstration of new systems of urban transportation that will carry people and goods within metropolitan areas speedily, safely, without polluting the air, and in a manner that will contribute to sound city planning. The program shall (1) concern itself with all aspects of new systems of urban transportation for metropolitan areas of various sizes, including technological, financial, economic, governmental, and social aspects; (2) take into account the most advanced available technologies and materials; and (3) provide national leadership to efforts of States, localities, private industry, universities, and foundations. The Secretary shall report his findings and recommendations to the President, for submission to the Congress, as rapidly as possible and in any event not later than eighteen months after the effective date of this subsection.

(c) The Secretary may make available to finance projects under this section not to exceed $10,000,000 of the mass transportation grant authorization provided in section 4(b), which limit shall be increased to $20,000,000 on July 1, 1965, to $30,000,000 on July 1, 1966, $40,000,000 on July 1, 1967, and to $56,000,000 on July 1, 1968. On or after July 1, 1969, the Secretary may make available to finance projects under this section such additional sums out of the grant authorization provided in section 4(b) as he deems appropriate.

(d) Nothing contained in this section shall limit any authority of the Secretary under section 602 of the Housing Act of 1956 or any other provision of law.

RELOCATION REQUIREMENTS AND PAYMENTS

SEC. 7. No financial assistance shall be extended to any project under section 3 unless the Secretary determines that an adequate relocation program is being carried on for families displaced by the project and that there are being or will be provided (in the same area or in other areas generally not less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the displaced families) an equal number of decent, safe, and sanitary dwellings available to

those displaced families and reasonably accessible to their places of employment.

PLANNING AND TECHNICAL STUDIES

SEC. 8. (a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives, and with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

(b)(1) The urbanized area planning process shall be carried on by local officials acting through a metropolitan planning organization in cooperation with the State.

(2) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area or areas and in cooperation with the Governor, redesignate as the metropolitan planning organization any representative organization.

(3) Except as provided in subparagraph (B), after the date of enactment of this subsection, designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.

(c) A program of projects eligible for assistance under this Act shall be submitted for approval to the Secretary. The Secretary shall not approve for an urbanized area any such program of projects in whole or in part unless (1) the Secretary finds that the planning process on which such program is based is being carried on in conformance with the objectives of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

(d) The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof for the planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) prep-

aration of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities, and equipment. A grant or contract under this section shall be made in accordance with criteria established by the Secretary.

(e) The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.

BLOCK GRANTS

SEC. 9. (a)(1) Of the amount appropriated from the general fund of the Treasury under section 21(a) of this Act, 8.64 per centum shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of less than 200,000.

(2) Of the amount appropriated from the general fund of the Treasury under section 21(a) of this Act, 88.43 per centum shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of 200,000 or more.

(b)(1) Of the funds available under subsection (a)(2) of this section, 33.29 per centum shall be available for expenditure in urbanized areas of 200,000 population or more in accordance with this subsection.

(2) 95.61 per centum of the amount made available under paragraph (1) of this subsection shall be apportioned as follows:

(A) 60 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway revenue vehicle miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway revenue vehicle miles attributable to all such urbanized areas; and

(B) 40 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway route miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway route miles attributable to all such urbanized areas.

No urbanized area in which commuter rail service is provided and which has a population of 750,000 or more shall receive less than 0.75 per centum of the sums made available under this paragraph. Under this paragraph, fixed guideway revenue vehicle or route miles provided, and passengers served thereby, in an urbanized area of less than 200,000 population, where such revenue vehicle miles or route miles and passengers served would otherwise be attributable to an urbanized area with a population of 1,000,000 or more in an adjacent State, shall be attributable to the public body in the State in which such urbanized area of less than 200,000 population is located as if the public body were an urbanized area of 200,000 or more so long as such public body contracts, directly or

indirectly, for such service. For the purpose of this subsection, the terms "fixed guideway revenue vehicle miles" and "fixed guideway route miles" shall include ferry boat operations directly or under contract by the designated recipient.

(3) 4.39 per centum of the amount made available for expenditure among urbanized areas of 200,000 population or more under paragraph (1) of this section shall be apportioned as follows: in the ratio that the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in each such urbanized area bears to the sum of the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all such urbanized areas. No urbanized area in which commuter rail service is provided and which has a population of 750,000 or more shall receive less than 0.75 per centum of the sums made available under this paragraph.

(c)(1) Of the funds available under subsection (a)(2) of this section, 66.71 per centum shall be available for expenditure in urbanized areas with a population of 200,000 or more in accordance with this subsection.

(2) 90.8 per centum of the amount made available under paragraph (1) of this subsection shall be apportioned as follows:

(A) 73.39 per centum shall be made available for expenditure in only those urbanized areas with a population of 1,000,000 or more, and on the basis of a formula under which such urbanized area will be entitled to receive an amount equal to the sum of—

(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas;

(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest Federal census; and

(iii) 25 per centum of such amount multiplied by the ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary; and

(B) 26.61 per centum shall be made available for expenditure in only those urbanized areas with a population of less than 1,000,000 and on the basis of a formula under which such urbanized areas will be entitled to receive an amount equal to the sum of—

(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas;

(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the

total population of all such urbanized areas as shown by the latest available Federal census; and

(iii) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

(3) 9.2 per centum of the amount made available under paragraph (1) of this subsection shall be apportioned among urbanized areas of 200,000 population or more as follows: in the ratio that the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in each such urbanized area bears to the sum of the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in all such urbanized areas.

(d) Funds available under subsection (a)(1) of this section shall be apportioned on the basis of a formula under which urbanized areas of less than 200,000 population shall be entitled to receive an amount equal to the sum of—

(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this section, the term "density" means the number of inhabitants per square mile.

(e)(1) The provisions of sections 3(e), 3(f), 3(g), 5(k)(3), 12(c), 13, and 19 shall apply to this section and to every grant made under this section. No other condition, limitation, or other provision of this Act, other than as provided in this section, shall be applicable to this section and to grants for programs of projects made under this section.

(2) To receive a grant under this section for any fiscal year, a recipient shall, within the time specified by the Secretary, submit a final program of projects prepared pursuant to subsection (f) and the certifications required by paragraph (3).

(3) Each recipient (including any person receiving funds from a Governor under this section) shall submit to the Secretary annually a certification that such recipient—

(A) has or will have the legal, financial, and technical capacity to carry out the proposed program of projects;

(B) has or will have satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and equipment, and will maintain such facilities and equipment;

(C) will comply with requirements of section 5(m) of this Act;

(D) will give the rate required by section 5(m) of this Act to any person presenting a medicare card duly issued to that person pursuant to title II or title XVIII of the Social Security Act;

(E) in carrying out procurements under this subsection, will use competitive procurements (as defined or approved by the Secretary), will not use procurements utilizing exclusionary or discriminatory specifications, and will carry out procurements in compliance with applicable Buy America provisions;

(F) has complied with the requirements of subsection (f);

(G) has available and will provide the required amount of funds in accordance with subsection (k)(1) of this section and will comply with the requirements of sections 8 and 16 of this Act; and

(H) has a locally developed process to solicit and consider public comment prior to raising fares or implementing a major reduction of transit service.

(f) Each recipient shall—

(1) make available to the public information concerning the amount of funds available under this subsection and the program of projects that the recipient proposes to undertake with such funds;

(2) develop a proposed program of projects concerning activities to be funded in consultation with interested parties, including private transportation providers;

(3) publish a proposed program of projects in such a manner to afford affected citizens, private transportation providers, and as appropriate, local elected officials an opportunity to examine its content and to submit comments on the proposed program of projects and on the performance of the recipient; and

(4) afford an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects.

In preparing the final program of projects to be submitted to the Secretary, the recipient shall consider any such comments and views, particulary those of private transportation providers, and shall, if deemed appropriate by the recipient, modify the proposed program of projects. The final program of projects shall be made available to the public.

(g)(1) The Secretary shall, at least on an annual basis, conduct, or require the recipient to have independently conducted, reviews and audits as may be deemed necessary or appropriate by the Secretary to determine whether—

(A) the recipient has carried out its activities submitted in accordance with subsection (e)(2) in a timely and effective manner and has a continuing capacity to carry out those activities in a timely and effective manner; and

(B) the recipient has carried out those activities and its certifications and has used its Federal funds in a manner which is consistent with the applicable requirements of this Act and other applicable laws.

Audits of the use of Federal funds shall be conducted in accordance with the auditing procedures of the General Accounting Office.

(2) In addition to the reviews and audits described in paragraph (1), the Secretary shall, not less than once every three years, perform a full review and evaluation of the performance of a recipient in carrying out the recipient's program, with specific reference to compliance with statutory and administrative requirements, and

consistency of actual program activities with the proposed program of projects required under subsection (e)(2) of this section and the planning process required under section 8.

(3) The Secretary may make appropriate adjustments in the amount of annual grants in accordance with the Secretary's findings under this subsection, and may reduce or withdraw such assistance or take other action as appropriate in accordance with the Secretary's review, evaluation, and audits under this subsection.

(4) No grant shall be made under this section to any recipient in any fiscal year unless the Secretary has accepted a certification for such fiscal year submitted by such person pursuant to subsection (e) of this section.

(h) The provisions of section 1001 of title 18, United States Code, apply to any certification or submission under this section. In addition, if any false or fraudulent statement or related act within the meaning of section 1001 of title 18, United States Code, is made in connection with a certification of submission under this subsection, the Secretary may terminate and seek appropriate reimbursement of the affected grant or grants directly or by offsetting funds available under this subsection.

(i) A recipient may request the Secretary to approve its procurement system. If, after consultation with the Office of Federal Procurement Policy, the Secretary finds that such system provides for competitive procurement, the Secretary shall approve such system for use for all procurements financed under this section. Such approval shall be binding until withdrawn. A certification from the recipient under subsection (e)(3)(E) is still required.

(j) Grants under this section shall be available to finance the planning, acquisition, construction, improvement, and operating costs of facilities, equipment, and associated capital maintenance items for use, by operation or lease or otherwise, in mass transportation service, including the renovation and improvement of a historic transportation facility with related private investment. As used in this section, the term "associated capital maintenance items" means any equipment and materials each of which costs no less than 1 per centum of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and materials are to be used.

(k)(1) The Federal grant for any construction project (including capital maintenance items) under this section shall not exceed 80 per centum of the net project cost of such project. The Federal grant for any project for operating expenses shall not exceed 50 per centum of the net project cost of such project. The remainder shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

(2) The amount of funds apportioned under this section which may be used for operating assistance shall not exceed 80 per centum of the amount of funds apportioned in fiscal year 1982 under paragraphs (1)(A), (2)(A), and (3)(A) of section 5(a) of this Act to an urbanized area with a population of 1,000,000 or more, 90 per centum of funds so apportioned to an urbanized area with a popu-

lation of 200,000 or more and less than 1,000,000 population; and 95 per centum of funds so apportioned to an urbanized area of less than 200,000 population. Notwithstanding the preceding sentence, an urbanized area that became an urbanized area for the first time under the 1980 census may use not to exceed 40 per centum of its apportionment under this section for operating assistance.

(3) Notwithstanding any other provision of law, the amount of funds apportioned under section 5 of this Act and available for operating assistance in fiscal year 1983 in an urbanized area shall be subject to the limitations set forth in paragraph (2) of this subsection. Subject to the limitation in the preceding sentence, funds apportioned under section 5(a)(4) of this Act in fiscal year 1983 may be used for operating assistance.

(l)(1)(A) Notwithstanding the provisions of subsection (k)(1), any recipient may, in fiscal years 1983 and 1984, transfer, for use for operating assistance, a portion of its apportionment under this section that otherwise is available only for capital assistance, except that the recipient's total operating assistance under this section (including any amounts transferred from its capital apportionment) for the fiscal year in which the transfer occurs shall not exceed the amount of Federal funds such recipient was apportioned under sections 5(a)(1)(A), 5(a)(2)(A), and 5(a)(3)(A) of this Act for the fiscal year ending September 30, 1982. The total operating assistance under this section (including any amounts transferred from its capital apportionment) for a recipient in an urbanized area that became an urbanized area for the first time under the 1980 census may not exceed 50 per centum of its apportionment under this section.

(B) Notwithstanding any other provision of law, a recipient may use its capital apportionment under section 5(a)(4) of this Act in fiscal year 1983 for purposes of carrying out a transfer under this subsection. No source of capital assistance under this Act (other than under section 5(a)(4)) may be used for such a transfer in such fiscal year.

(2) Any recipient that intends to carry out a transfer under this subsection shall, at the time it submits a proposed program of projects to the Secretary under subsection (e)(2)—

(A) certify that it has provided public notice of its intent to transfer its capital apportionment (including notice of the funding reductions resulting from utilization of this subsection and other requirements of this subsection) and provided an opportunity for public comment; and

(B) certify that it has developed a three-year plan to assure that in the fiscal year ending September 30, 1985, it will not need to use and will not use its capital apportionment for operating assistance.

(3) Whenever any recipient transfers its capital apportionment for operating assistance in accordance with the requirements of this subsection, two-thirds of the amount transferred shall be available to the recipient for operating assistance and the remaining one-third amount shall be availale to the Secretary to make discretionary grants under this section. In making such discretionary grants, first priority shall be given to any urbanized area that is apportioned an amount under this section in fiscal year 1983 which

is less than the amount such urbanized area was apportioned under section 5 of this Act for the fiscal year ending September 30, 1982. Any amounts remaining shall be available for discretionary construction grants under this section subject to the second and third sentences of section 4(a).

(4) The authority of recipients to use the provisions of this paragraph shall terminate on September 30, 1984.

(m)(1) The Governor, responsible local officials, and publicly owned operators of mass transportation services in accordance with the planning process required under section 8 of this Act shall designate a recipient or recipients to receive and dispense the funds appropriated under this section that are attributable to urbanized areas of 200,000 or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract, or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. As used in this section, the term "designated recipient" shall refer to a recipient selected according to the procedures required by this section or to a recipient designated in accordance with section 5(b)(1) of this Act prior to the date of enactment of this section.

(2) Sums apportioned under this subsection not made available for expenditure by designated recipients in accordance with the terms of paragraph (1) shall be made available to the Governor for expenditure in urbanized areas with populations of less than 200,000.

(n)(1) The Governor may transfer an amount of the State's apportionment under subsection (d) to supplement funds apportioned to the State under section 18(a) of this Act, or to supplement funds apportioned to urbanized areas with populations of 300,000 or less under this subsection. The Governor may make such transfers only after consultation with responsible local officials and publicly owned operators of mass transportation services in each area to which the funding was originally apportioned pursuant to subsection (d). The Governor may transfer an amount of the State's apportionment under section 18(a) to supplement funds apportioned to the State under subsection (d). Amounts transferred shall be subject to the capital and operating assistance limitations applicable to the original apportionments of such amounts.

(2) A designated recipient for an urbanized area of 200,000 or more population may transfer its apportionment under this section, or a portion thereof, to the Governor. The Governor shall distribute any such apportionment to urbanized areas in the State, including areas of 200,000 or more population, in accordance with this section. Amounts transferred shall be subject to the capital and operating assistance limitations applicable to the original apportionment of such amounts.

(o) Sums apportioned under this section shall be available for obligation by the recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year.

MASS TRANSIT ACCOUNT DISTRIBUTION

SEC. 9A. (a)(1) Of the amount made available from the Mass Transit Account of the Highway Trust Fund under section 21(a) of this Act in fiscal year 1983, 8.64 per centum shall be available for expenditure under this section in such fiscal year only in urbanized areas with a population of less than 200,000.

(2) Of the amount made available from the Mass Transit Account of the Highway Trust Fund under section 21(a) of this Act in fiscal year 1983, 88.43 per centum shall be available for expenditure under this section in such fiscal year only in urbanized areas with 200,000 population or more.

(b)(1) Of the funds available under subsection (a)(2) of this section, 66.71 per centum shall be apportioned among urbanized areas with 200,000 population or more as follows:

(A) 73.39 per centum shall be made available for expenditure in only those urbanized areas with a population of 1,000,000 or more, and on the basis of a formula under which such urbanized area will be entitled to receive an amount equal to the sum of—

(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas;

(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest Federal census; and

(iii) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary; and

(B) 26.61 per centum shall be made available for expenditure in only those urbanized areas with a population of less than 1,000,000 and on the basis of a formula under which such urbanized area will be entitled to receive an amount equal to the sum of—

(i) 50 per centum of the amount available under this subparagraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area bears to the total bus revenue vehicle miles in all such urbanized areas;

(ii) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

(iii) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

(2) Of the funds available under subsection (a)(2) of this section, 33.29 per centum shall be apportioned among urbanized areas of 200,000 population or more as follows:

(A) 60 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway revenue vehicle miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway revenue vehicle miles attributable to all such urbanized areas; and

(B) 40 per centum of the amount so apportioned multiplied by the ratio which the number of fixed guideway route miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway route miles attributable to all such urbanized areas.

No urbanized area in which commuter rail service is provided and which has a population of 750,000 or more shall receive less than 0.75 per centum of the sums made available under this paragraph. Under this paragraph, fixed guideway revenue vehicle or route miles provided, and passengers served thereby, in an urbanized area of less than 200,000 population, where such revenue vehicle miles or route miles and passengers served would otherwise be attributable to an urbanized area with a population of 1,000,000 or more in an adjacent State, shall be attributable to the public body in the State in which such urbanized area of less than 200,000 population is located as if the public body were an urbanized area of 200,000 or more so long as such public body contracts, directly or indirectly, for such service. For the purpose of this paragraph, the terms "fixed, guideway revenue vehicle miles" and "fixed guideway route miles" shall include ferry boat operations directly or under contract by the designated recipient.

(c) Funds available under subsection (a)(1) of this section shall be apportioned on the basis of a formula under which urbanized areas of less than 200,000 population shall be entitled to receive an amount equal to the sum of—

(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this section, the term "density" means the number of inhabitants per square mile.

(d)(1) The provisions of subsections (e), (f), (g), (h), (i), (m), and (n) of section 9 of this Act shall apply to grants made under this section.

(2)(A) Grants under this section shall be made for the purposes described in subsection (j) of section 9 of this Act, except that such grants may not be used for payment of operating expenses.

(B) The Federal grant for any project under this section shall not exceed 80 per centum of the net project cost of such project.

(3) The provisions of subsection (o) of section 9 shall apply to grants made under this section, except that amounts remaining unobligated at the end of the 3-year period shall be added to the amount available under section 3 for the succeeding fiscal year.

GRANTS FOR TRAINING PROGRAMS

SEC. 10. The Secretary is authorized to make grants to States, local public bodies, and agencies thereof (and operators of public transportation services) to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the public transportation field. Fellowships shall be for not more than one year of training in public or private training institutions offering programs having application in the public transportation industry. The recipient of a fellowship under this section shall be selected by the grantee on the basis of demonstrated ability and for the contribution which the recipient can be reasonably expected to make to an efficient public transportation operation. The assistance under this section toward each fellowship shall not exceed the lesser of $24,000 or 75 per centum of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the training institution in connection with the fellowship and billed to the grantee, and (3) the regular salary of the fellowship recipient for the period of the fellowship (to the extent that salary is actually paid or reimbursed by the grantee).

GRANTS FOR RESEARCH AND TRAINING IN URBAN TRANSPORTATION PROBLEMS

SEC. 11. (a) The Secretary is authorized to make grants to public and private nonprofit institutions of higher learning to assist in establishing or carrying on comprehensive research in the problems of transportation in urban areas. Such grants shall be used to conduct competent and qualified research and investigations into the theoretical or practical problems of urban transportation, or both, and to provide for the training of persons to carry on further research or to obtain employment in private or public organizations which plan, construct, operate, or manage urban transportation systems. Such research and investigations may include, without being limited to, the design and functioning of urban mass transit systems; the design and functioning of urban roads and highways; the interrelationship between various modes of urban and interurban transportation; the role of transportation planning in overall urban planning; public preferences in transportation; the economic allocation of transportation resources; and the legal, financial, engineering, and esthetic aspects of urban transportation. In making such grants the Secretary shall give preference to institutions of higher learning that undertake such research and training by bringing together knowledge and expertise in the various social science and technical disciplines that relate to urban transportation problems.

(b)(1) In addition to grants authorized by subsection (a) of this section, the Secretary is authorized to make grants for the purpose of establishing and operating transportation centers at nonprofit institutions of higher learning.

(2) The institutions receiving assistance under this subsection shall be selected by the Secretary, in coordination with State transportation agencies or departments, on the basis of demonstrated research and extension resources capable of contributing to the solution of State and regional transportation problems.

(3) The responsibilities and duties of each transportation center shall include, but not be limited to, the conduct of competent research investigations, both scientific and policy oriented, and experiments of either a basic or practical nature in relation to transportation problems.

(4) In order for an institution to receive Federal funds under this subsection, subject to the conditions set forth therein, such institution, in coordination with the State in which the institution is located (or, in the case of multi-institutional programs authorized under paragraph (6) of this subsection, in coordination with the States in which the participating institutions are located) shall submit to the Secretary for his approval a program or programs of proposed projects for the academic year for the utilization of such funds. The Secretary shall act upon programs submitted to him by March 15 preceding the fiscal year for which application for assistance is made (except in the case of fiscal year 1979, for which the Secretary shall act upon programs submitted to him as soon as practicable).

(5) As a condition to project approval, the amount of the Federal grant must be equally matched from other than Federal funds.

(6) Upon the joint application of two or more institutions of higher learning, the Secretary may approve a multi-institutional program to address regional transportation problems, subject to conditions set forth in this subsection.

(7) On or before July 1 of each fiscal year for which funds have been appropriated under this subsection, each participating institution shall submit a report to the Secretary on its activities and progress in solving transportation problems, which include bona fide research and training in urban transportation. On or before October 1 of each such fiscal year, the Secretary shall submit a report to Congress on the activities and progress of the program authorized by this subsection in solving transportation problems and achieving national transportation policy objectives.

GENERAL PROVISIONS

SEC. 12. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this Act, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 402, except subsections (c) (2) and (f), of the Housing Act of 1950. Funds obtained or held by the Secretary in connection with the performance of his functions under this Act shall be available for the administrative expenses of the Secretary in connection with the performance of such functions.

(b)(1) All contracts for construction, reconstruction, or improvement of facilities and equipment in furtherance of the purposes for which a loan or grant is made under this Act, entered into by applicants under other than competitive bidding procedures as defined by the Secretary, shall provide that the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of

the contracting parties that are pertinent to the operations or activities under such contracts.

(2) In lieu of requiring that contracts for the acquisition of rolling stock be awarded based on consideration of performance, standardization, life-cycle costs and other factors, or on the basis of lowest initial capital cost, such contract may be awarded based on a competitive procurement process. The Secretary shall report to Congress within a year of enactment of the Federal Public Transportation Act of 1982 on any legislative or administrative revisions required to ensure that procurement procedures are fair and competitive.

(c) As used in this Act—

(1) the term "construction" means the supervising, inspecting, actual building, and all expenses incidental to the acquisition, construction, or reconstruction of facilities and equipment for use in public transportation, including designing, engineering, location surveying, mapping, acquisition of rights-of-way, relocation assistance, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and such term also means any bus rehabilitation project which extends the economic life of a bus five years or more;

(2) the term "fixed guideway" means any public transportation facility which utilizes and occupies a separate right-of-way or rails for the exclusive use of public transportation service including, but not limited to, fixed rail, automated guideway transit, and exclusive facilities for buses and other high occupancy vehicles, and also means a public transportation facility which uses a fixed catenary system and utilizes a right-of-way usable by other forms of transportation;

(3) the term "Governor" means the ranking executive officer or his designate for each of the jurisdictions included in the definition of "State";

(4) the term "handicapped person" means any individual who by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any person who is wheelchair bound or has semiambulatory capabilities, is unable without special facilities or special planning or design to utilize public transportation facilities and services effectively. The Secretary may, by regulation, adopt modifications of this definition for purposes of section 5(m) of this Act;

(5) the term "local public bodies" includes municipalities and other political subdivisions of States; public agencies and instrumentalities of one or more States, municipalities and political subdivisions of States; Indian tribes; and public corporations, boards, and commissions established under the laws of any State;

(6) the term "mass transportation" means transportation by bus, or rail, or other conveyance, either publicly or privately owned, which provides to the public general or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis;

(7) the term "public transportation" means mass transportation;

(8) the term "Secretary" means the Secretary of Transportation;

(9) the term "States" means the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands;

(10) the term "urban area" means any area that includes a municipality or other built-up place which is appropriate, in the judgment of the Secretary, for a public transportation system to serve commuters or others in the locality taking into consideration the local patterns and trends of urban growth; and

(11) the term "urbanized area" means an area so designated by the Bureau of Census, within boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in case of any such area, encompass the entire urbanized area within a State as designated by the Bureau of Census.

(d) None of the provisions of this Act shall be construed to authorize the Secretary to regulate in any manner the mode of operation of any mass transportation system with respect to which a grant is made under section 3 or, after such grant is made, to regulate the rates, fares, tolls, rentals, or other charges fixed or prescribed for such system by any local public or private transit agency; but nothing in this subsection shall prevent the Secretary from taking such actions as may be necessary to require compliance by the agency or agencies involved with any undertakings furnished by such agency or agencies in connection with the application for the grant.

(e) None of the provisions of this Act shall be construed to authorize Federal financial assistance for the purpose of financing the acquisition by one public body of land, facilities, or equipment used in mass transportation from another public body in the same geographic area.

(f)(1) A State or local public body may petition the Interstate Commerce Commission for an exemption from part II of the Interstate Commerce Act for mass transportation services provided by such State or local public body or provided to such State or local public body by contract. Not later than one hundred and eighty days after the date such petition is received by the Commission, the Commission shall, after notice and reasonable opportunity for a hearing on such petition, by order, exempt such State or local public body or contractor from part II of the Interstate Commerce Act with respect to such mass transportation services to the extent and for such time as it specifies in such order, unless the Commission finds that—

(A) the public interest would not be served by such exemption,

(B) the exemption requested would result in an undue burden on the interstate or foreign commerce, or

(C) the mass transportation services, including rates, proposed to be exempt are not subject to regulation by any State or local public agency.

(2) Any State or local public body granted an exemption under paragraph (1) of this subsection shall be subject to all applicable Federal laws pertaining to (A) safety, (B) the representation of employees for purposes of collective bargaining, (C) retirement, annuities, and unemployment systems, and (D) all other provisions of law relating to employee-employer relations. The Commission, upon its own initiative or upon petition of an interested party, may alter, amend, or revoke any exemption under paragraph (1) of this subsection if it subsequently finds that new evidence, material error, or changed circumstances exist which materially affect its original order.

(g) In the case of any buses acquired with Federal financial assistance provided under this Act, the Secretary shall permit the State or local body which is acquiring such buses to provide in advertising for bids for passenger seats functional specifications (which equal or exceed the performance specifications prescribed by the Secretary), based on that State or local body's determination of local requirements for safety, comfort, maintenance and life cycle costs. This subsection shall apply to the initial advertising for bids for the acquisition of buses occurring on or after the date of enactment of the Federal Public Transportation Act of 1978.

LABOR STANDARDS

SEC. 13. (a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary shall not approve any such loan or grant without first obtaining adequate assurance that required labor standards will be maintained upon the construction work.

(b) The Secretary of Labor shall have, with respect to the labor standards specified in subsection (a), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

(c) It shall be a condition of any assistance under section 3 of this Act that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interests of employees affected by such assistance. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment

of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended. The contract for the granting of any such assistance shall specify the terms and conditions of the protective arrangements.

ENVIRONMENTAL PROTECTION

SEC. 14. (a) It is hereby declared to be the national policy that special effort shall be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and important historical and cultural assets, in the planning, designing, and construction of urban mass transportation projects for which Federal assistance is provided pursuant to section 3 of this Act. In implementing this policy the Secretary shall cooperate and consult with the Secretaries of Agriculture, Health, Education, and Welfare, Housing and Urban Development, and Interior, and with the Council on Environmental Quality with regard to each project that may have a substantial impact on the environment.

(b) The Secretary shall review each transcript of hearing submitted pursuant to section 3(d) to assure that an adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest, and that the project application includes a detailed statement on—

(1) the environmental impact of the proposed project,

(2) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(3) alternatives to the proposed project, and

(4) any irreversible and irretrievable impact on the environment which may be involved in the proposed project should it be implemented.

(c) The Secretary shall not approve any application for assistance under section 3 unless he finds in writing, after a full and complete review of the application and of any hearings held before the State or local public agency pursuant to section 3(d), that (1) adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest, and fair consideration has been given to the preservation and enhancement of the environment and to the interest of the community in which the project is located, and (2) either no adverse environmental effect is likely to result from such project, or there exists no feasible and prudent alternative to such effect and all reasonable steps have been taken to minimize such effect. In any case in which a hearing has not been held before the State or local agency pursuant to section 3(d), or in which the Secretary determines that the record of hearings before the State or local public agency is inadequate to permit him to make the findings required under the preceding sentence, he shall conduct hearings, after giving adequate notice to interested persons, on any environmental issues

raised by such application. Findings of the Secretary under this subsection shall be made a matter of public record.

REPORTING SYSTEM

SEC. 15. (a) The Secretary shall by January 10, 1977, develop, test, and prescribe a reporting system to accumulate public mass transportation financial and operating information by uniform categories and a uniform system of accounts and records. Such systems shall be designed to assist in meeting the needs of individual public mass transportation systems, Federal, State, and local governments, and the public for information on which to base planning for public transportation services, and shall contain information appropriate to assist in the making of public sector investment decisions at all levels of government. The Secretary is authorized to develop and test these systems in consultation with interested persons and organizations. The Secretary is authorized to carry out this subsection independently, or by grant or contract (including working arrangements with other Federal, State, or local government agencies). The Secretary is authorized to request and receive such information or data as he deems appropriate from public or private sources.

(b) After July 1, 1978, the Secretary shall not make any grant under section 5 or 9 unless the applicant for such grant and any person or organization to receive benefits directly from that grant are each subject to both the reporting system and the uniform system of accounts and records prescribed under subsection (a) of this section.

(c) The Secretary shall, not later than July 1, 1979, report to Congress on the systems prescribed under authority of this section, together with his recommendations for any further legislation, if any, he deems necessary in connection with such systems.

PLANNING AND DESIGN OF MASS TRANSPORTATION FACILITIES TO MEET SPECIAL NEEDS OF THE ELDERLY AND THE HANDICAPPED

SEC. 16. (a) It is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly and handicpped persons of mass transporation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass transportation (including the programs under this Act) should contain provisions implementing this policy.

(b) In addition to the grants and loans otherwise provided for under this Act, the Secretary is authorized to make grants and loans—

(1) to States and local public bodies and agencies thereof for the specific purpose of assisting them in providing mass transportation services which are planned, designed, and carried out so as to meet the special needs of elderly and handicapped persons, with such grants and loans being subject to all of the terms, conditions, requirements, and provisions applicable to

grants and loans made under section 3(a) and being considered for the purposes of all other laws to have been made under such section; and

(2) to private nonprofit corporations and associations for the specific purpose of assisting them in providing transportation services meeting the special needs of elderly and handicapped persons for whom mass transportation services are planned, designed and carried out under paragraph (1) are unavailable, insufficient, or inappropriate, with such grants and loans being subject to such terms, conditions, requirements, and provisions (similar insofar as may be appropriate to those applicable to grants and loans under paragraph (1)) as the Secretary may determine to be necessary or appropriate for purposes of this paragraph.

Of the total amount authorized to be appropriated pursuant to section 21(a)(2) of this Act, 3.5 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs).

(c) Of any amounts made available to finance research, development, and demonstration projects under section 6 after the date of the enactment of this section, 1½ per centum may be set aside and used exclusively to increase the information and technology which is available to provide improved transportation facilities and services planned and designed to meet the special needs of elderly and handicapped persons.

(c)[1] In carrying out subsection (a) of this section, section 165(b) of the Federal-Aid Highway Act of 1973, and section 504 of the Rehabilitation Act of 1973 (consistent with any applicable Government-wide standards for the implementation of such section 504), the Secretary shall, not later than ninety days after the date of the enactment of this subsection, publish in the Federal Register for public comment, proposed regulations and, not later than one hundred and eighty days after the date of such enactment, promulgate final regulations, establishing (1) minimum criteria for the provision of transportation services to handicapped and elderly individuals by recipients of Federal financial assistance under this Act or under any provision of law referred to in section 165(b) of the Federal-Aid Highway Act of 1973, and (2) procedures for the Secretary to monitor recipients' compliance with such criteria. Such regulations shall include provisions for ensuring that organizations and groups representing such individuals are given adequate notice of and opportunity to comment on the proposed activities of recipients for the purpose of achieving compliance with such regulations.

EMERGENCY OPERATING ASSISTANCE

SEC. 17. (a) The Secretary shall provide financial assistance for the purpose of reimbursing—

(1) the Consolidated Rail Corporation, the National Railroad Passenger Corporation, other railroads, and, if applicable, the trustee or trustees of a railroad in reorganization in the region

[1] Section 317(c) of Public Law 97-424 added a new section mislabeled as (c), as section 16.

(as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702)) for the costs of rail passenger service operations conducted at a loss during the 180-day mandatory operation period, as required under section 304(e) of such Act (45 U.S.C. 744(e)). Such reimbursement shall cover all costs not otherwise paid by a State or a local or regional transportation authority which would have been payable by such State or authority, pursuant to regulations issued by the Office under section 205(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715) if such regulations had been in effect on the date of conveyance of rail properties under section 303(b)(1) of such Act; and

(2) States, local public bodies, and agencies thereof for additional costs incurred by such States, bodies, and agencies with respect to rail passenger service required by section 304(e)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)(4)).

(b) Financial assistance under subsection (a) of this section shall not apply to intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation which was in effect immediately prior to such date of conveyance.

(c) Financial assistance provided pursuant to subsection (a) of this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate with such reasonable exceptions to requirements and provisions otherwise applicable under this Act as the Secretary may deem required by the emergency nature of the assistance authorized by this section. Nothing in this section shall authorize the Secretary to waive the provisions of section 13(c) of this Act.

(d) The Federal share of the costs of any rail passenger service required by subsections (c) and (e) of section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744 (c) and (e)) shall be as follows:

(1) 100 percent of the costs eligible under subsection (a)(1) or (a)(2) of this section for the 180-day mandatory operation period required by section 304(e) of such Act;

(2) 100 percent for the 180-day period following the 180-day mandatory operation period;

(3) 90 percent for the 12-month period succeeding the period specified in subparagraph (2) of this subsection; and

(4) 80 percent for the period ending September 30, 1978.; and [1]

(e) The terms and provisions which are applicable to assistance provided pursuant to this section shall be consistent, insofar as is practicable, with the terms and provisions which are applicable to operating assistance under section 5 of this Act.

(f) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate amount not to exceed $125,000,000. There are authorized to be appropriated for

[1] So in original. Amendment made by section 312(a) of Public Law 95-599 should have been stricken "; and."

liquidation of the obligations incurred under this section not to exceed $40,000,000 by September 30, 1976, $95,000,000 by September 30, 1977 and $125,000,000 by September 30, 1978, such sums to remain available until expended.

SEC. 18. (a) The Secretary shall apportion for expenditure in each fiscal year the sums made available under section 21(a) of this Act to carry out this section. Such sums shall be made available for expenditure for public transportation projects in areas other than urbanized areas on the basis of a formula under which the Governor of each State will be entitled to receive an amount equal to the total amount so apportioned, multiplied by the ratio which the population of areas other than urbanized areas in such State, as designated by the Bureau of the Census, bears to the total population of areas other than urbanized areas in all the States as shown by the latest available Federal census. Appropriations pursuant to the authority of this section may be made in an appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation.

(b) Funds made available under this section may be used for public transportation projects which are included in a State program of projects for public transportation services in areas other than urbanized areas. Such program shall be submitted annually to the Secretary for his approval. The Secretary shall not approve the program unless he finds that it provides for a fair and equitable distribution of funds within the State, including Indian reservations within the State, and provides for the maximum feasible coordination of public transportation services assisted under this section with transportation services assisted by other Federal sources.

(c) Sums apportioned under this subsection shall be available for obligation by the Governor for a period of two years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year. States may utilize sums apportioned under this section for any projects eligible under this Act which are appropriate for areas other than urbanized areas, including purchase of service agreements with private providers of public transportation service, to provide local transportation service, as defined by the Secretary, in areas other than urbanized areas. Eligible recipients may include State agencies, local public bodies and agencies thereof, nonprofit organizations, and operators of public transportation services.

(d) The Secretary may permit an amount, not to exceed 15 per centum of the amount apportioned, to be used by each State for administering this section and for providing technical assistance to recipients of funds under this section. Such technical assistance may include project planning, program development, management development, coordination of public transportation programs (public and private), and such research as the State may deem appropriate to promote effective means of delivering public transportation service in areas other than urbanized areas.

(e) The Federal share under this Act for any construction project under this section shall not exceed 80 per centum of the net cost of such construction project, as determined by the Secretary. The Federal share under this Act for any project for the payment of subsi-

dies for operating expenses, as defined by the Secretary, shall not exceed 50 per centum of the net cost of such operating expense project. At least 50 per centum of the remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement, or depreciation funds or reserves available in cash or new capital.

(f) Grants under this section shall be subject to such terms and conditions (which are appropriate to the special needs of public transportation in areas other than urbanized areas) as the Secretary may prescribe. The provisions of sections 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section. For the purposes of this section, the Secretary of Labor may waive any provisions of section 13(c) of this Act. Nothing under this subsection shall affect or discharge any responsibility of the Secretary under any other provision of Federal law.

(g) The Secretary shall, in cooperation with State regulatory commissions, make an evaluation of the escalation of insurance rates for operators of public transportation in rural areas and for providers of special transportation services for elderly and handicapped persons. The Secretary shall, not later than January 1, 1980, report to Congress the results of this evaluation together with his recommendations for necessary legislation.

NONDISCRIMINATION

SEC. 19. (a)(1) GENERAL.—No person in the United States shall on the grounds of race, color, creed, national origin, sex, or age be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through financial assistance under this Act. The provisions of this section shall apply to employment and business opportunities and shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

(2) AFFIRMATIVE ACTION.—The Secretary shall take affirmative action to assure compliance with subsection (a)(1) of this section.

(3) COMPLIANCE.—(A) Whenever the Secretary determines that any person receiving financial assistance, directly or indirectly, under this Act, has failed to comply with subsection (a)(1) of this section, with any Federal civil rights statute, or with any order or regulation issued under such statute, the Secretary shall give notice of such determination and shall require necessary action to be taken to assure compliance with such subsection.

(B) If, within a reasonable period of time after receiving notification pursuant to paragraph (a) of this subsection, such person fails or refuses to comply with subsection (a)(1) of this section, the Secretary shall—

(i) direct that no further Federal financial assistance under this Act be provided to such person;

(ii) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(iii) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(iv) take such other actions as may be provided by law.

(4) CIVIL ACTION.—Whenever a matter is referred to the Attorney General pursuant to subsection (a)(3)(B)(ii) of this section, or whenever the Attorney General has reason to believe that any person is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may commence a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(5) DEFINITION.—For purposes of this section, the term "person" includes one or more governmental agencies, political subdivisions, authorities, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.

HUMAN RESOURCE PROGRAMS

SEC. 20. The Secretary is authorized to undertake, or provide financial assistance by grant or contract for, national and local programs that address human resource needs as they apply to public transportation activities. Such programs may include but are not limited to employment training programs; outreach programs to increase minority and female employment in public transportation activities; research on public transportation manpower and training needs; and training and assistance for minority business opportunities. Such assistance may include assistance in seeking venture capital, obtaining surety bonding, obtaining management and technical services, and contracting with public agencies organized for such purposes.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 21. (a)(1) There is hereby authorized to be appropriated to carry out the provisions of sections 9 and 18 of this Act not to exceed $2,750,000,000 for the fiscal year ending September 30, 1984, $2,950,000,000 for the fiscal year ending September 30, 1985, and $3,050,000,000 for the fiscal year ending September 30, 1986, and funds appropriated under this subsection shall remain available until expended.

(2)(A) There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9A and 18 of this Act $779,000,000 for fiscal year 1983.

(B) There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 3, 4(i), 8, and 16(b) of this Act, $1,250,000,000 for fiscal year 1984, $1,100,000,000 for fiscal year 1985, and $1,100,000,000 for fiscal year 1986.

(C) Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under subparagraphs (A) and (B) of this paragraph shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

(3) In fiscal year 1983, 2.93 per centum of the amount made available from the Mass Transit Account of the Highway Trust Fund under paragraph (2) of this subsection shall be available to carry out section 18 of this Act.

(4) In each of fiscal years 1984, 1985, and 1986, 2.93 per centum of the amount appropriated from the general fund of the Treasury under paragraph (1) of this subsection shall be available to carry out section 18 of this Act and shall remain available until expended.

(5) Of the funds available for obligation under paragraph (2)(B), $50,000,000 shall be used in each of fiscal years 1984, 1985, and 1986 for the purposes of section 8 of this Act. Nothing herein shall prevent the use of additional funds available under this subsection for planning purposes.

(b) There is hereby authorized to be appropriated to carry out sections 6, 10, 11(a), 12(a), and 20 of this Act not to exceed $86,250,000 for the fiscal year ending September 30, 1983, $86,000,000 for the fiscal year ending September 30, 1984, and $90,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, and September 30, 1986. Sums appropriated pursuant to this subsection for financing projects funded under section 6 of this Act shall remain available until expended.

SAFETY AUTHORITY

SEC. 22. The Secretary may investigate conditions in any facility, equipment, or manner of operation financed under this Act which the Secretary believes creates a serious hazard of death or injury. The investigation should determine the nature and extent of such conditions and the means which might best be employed to correct or eliminate them. If the Secretary determines that such conditions do create such a hazard, he shall require the local public body which has received funds under this Act to submit a plan for correcting or eliminating such condition. The Secretary may withhold further financial assistance under this Act from the local public body until he approves such plan and the local public body implements such plan.

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